RELIGIOUS CONGREGATIONS

IN THEIR

EXTERNAL RELATIONS

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DISSERTATION

SUBMITTED TO THE FACULTY OF THEOLOGY OF
THE CATHOLIC UNIVERSITY OF AMERICA

IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR THE DEGREE

DOCTOR OF CANON LAW

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By Celestine A. Freriks, C.PP.S., J.C.L.
Catholic University of America

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WASHINGTON, D. C., DIE 14 JUNII 1916

✠THOMAS J. SHAHAN, S. T. D.,
CENSOR DEPUTATUS

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CONTENTS.

PAGE

Introduction 6

Definition and Explanation of Terms 9

An Historical Survey of Ecclesiastical Approval 16

The Founding and Approval of Religious Congregations ... 33

Entrance into a Religious Congregation 43

The Bond of Religious Life 56

Egress from a Religious Institute 64

The Relation of Congregations to the Holy See 76

The Relation of Congregations to the Ordinary 85

Sources and Bibliography 111

INTRODUCTION.

A treatise on Religious Congregations can hardly be prefaced more fitly than in the words of Pius X: "Dei providentis benignitatem, opportune Ecclesiae temporibus subvenientem, cum alia multa ostendunt, tum hoc praeclare, quod veteribus religiosorum Ordinibus ob conversionem publicarum rerum dispersis afflictisque, nova instituta accessere, quae professionem religiosae vitae retinendo, ingravescentibus Christiani populi necessitatibus multipliciter deserviunt. . . . Profecto sodalitatum istiusmodi tam bene de Ecclesia deque ipsa civili societate merentium, sperandum est, nunquam defuturam copiam: hodieque libet agnoscere, usque adeo eas increbuisse, ut nullum videatur esse ministrandae caritatis Christianae genus, quod illae reliquum fecerint." [1]

The truth of these words of the Sovereign Pontiff are in our times so evident to both Catholics and non-Catholics that they naturally, as it were, turn to the heroic souls of Religion in almost every need and affliction of soul and body. Wherever the standard of the Cross has been carried, there divine Providence has chosen heroic souls to imitate the sacrifices and charity of the Crucified. For centuries these elect of God were banded together in Institutes called Orders which demanded of their members the profession of Solemn vows and generally also the observance of the Cloister. With the changed conditions of society it frequently became very difficult, and in some countries even impossible, to adhere to this ancient and approved mode of Religious life and still render to society that multifarious service which Christian charity inspires. Hence divine Providence, as the Holy Father tells us, came to the rescue by providing Institutes which were adapted to our times and necessities.

For a long time, however, the Church was extremely reluctant to recognize officially some of the new Institutes that had sprung up in the various parts of the Christian world. She ever appre-

[1] Decr. "Dei providentis," July 16, 1906.

ciated the good they performed and repeatedly confirmed their rule of life as well adapted to the purpose of their Institutes. But it was only after years of probation that She gradually placed Her official approval on single Communities and their mode of living. Especially was this Her attitude towards Institutes of women.

But it remained for the celebrated Pontiff, Leo XIII, by his decree "Conditae a Christo," to give the Congregations a permanent and specific standing in the Common law of the Church. Many regulations have been added to this "Magna Charta" of Religious Congregations. Pius X says in one of his decrees: "Apostolica Sedes, admodum sollicita provehendae perfectionis inter Religiosas utriusque sexus Familias, plures edidit easque saluberrimas leges, quibus quaedam vetantur, quaedam praescribuntur, ad Sodalium ingressum, institutionem, vota, studia, vitae externae rationem aliaque id genus apte moderanda." [2]

These words suggest immediately that Pius X's motto, "Restaurare omnia in Christo," embraced nearly every phase of Religious life. A consistent policy of reforming and generalizing the laws for Religious Congregations was carried on throughout his entire pontificate. These regulations and generalizations, however, extended chiefly to the external relations of Congregations. Some important modifications and new laws were made for the internal régime, but even these have frequently a more or less close connection with external conditions.

Many valuable works have been written in the Latin, German, French, and Italian languages on Religious Congregations. Frequently their authors wrote before a definite and common status had been assigned to Religious Institutes. Then, too, large parts of their works are often devoted to the "Normae" drafted and used by the Holy See in approving new Institutes. But the Holy See has never imposed these "Normae" on all Congregations as laws. Still it must be said that no better foundation

[2] Decr. S. C. de Religiosis, July 3, 1910.

could be laid for their writings, for they express the mind of the Holy See. Finally, the new discipline demands a reconstruction of many of the works on Religious Congregations.

These different circumstances and the fact that Religious Societies occupy such an important place in Religious life and ecclesiastical legislation, have led us to believe that Religious Congregations afforded a valuable subject for a canonical study. The present study, however, excludes particular and internal regulations and privileges. It aims solely at investigating the legislation of the Church in regard to the external relations of Religious Congregations in general. For this purpose it has seemed necessary to review the origin and development of Religious Congregations, to give the laws governing a new foundation and its approval, the conditions requisite for entrance, the regulations regarding dismissal, and the external government.

With this brief foreword we introduce the reader to the following eight chapters on "Religious Congregations in Their External Relations," hoping some day to perfect and supply what is wanting in them. We deplore the fact that European conditions prevented us from investigating some valuable works having direct bearing on our subject. Some Canonists have written commentaries on many of the new decrees used in this treatise, but at present it is very difficult and in some cases impossible, as we experienced, to obtain them. No doubt these experienced minds throw considerable light on many points of the new regulations. To all, however, that will be said in the following pages, let the phrase "salvo meliore judicio" be added and understood.

CHAPTER I.

Definition and Explanation of Terms.

The word "Congregation" is of Latin origin [congregare, f. con—together, and gregare—to collect into a flock or company, f. gregem (grex), flock, herd] and signifies both the action of collecting and its result, viz., a gathering or assemblage of men, animals or things. In its concrete sense as an assemblage of persons it is not found in classical Latin; it is, however, found in the Vulgate.[1] Both Old and New Testaments predicate it of Israelites and Christians in their collective capacity as well as of particular groups and classes.[2]

The Biblical use of the term found application in secular and ecclesiastical institutions and corporations. Assemblies, societies, and faculties of learning, were frequently designated "Congregations" in civic and social life.[3] In transacting ecclesiastical affairs the Church, both in Council and Curia, has from time immemorial called the commissions discharging the legislative, administrative and judicial functions "Congregations," or the "Roman Congregations" in the case of the permanent commissions or tribunals.[4]

With the development of Religious life in the early Church, groups of chosen souls established their abodes in the wilderness and deserts to devote their lives to a more intimate union with God. These little communities of "saints" are known in

[1] The National English Dictionary.

[2] Num. I, 2; XVI, 16; I Macab., VII, 12; II Thess., II, 1.

[3] A New English Dictionary, Vol. 8, p. 824.

[4] Hilling, "Procedure of the Roman Curia"; Pastor, "History of the Popes."

history as the first "Congregations" of Religious.[5] Later, the Monastic system found greater protection for itself by uniting the independent Monasteries into "Congregations" under a more or less general direction and government.[6] But the severe life of the ancient Orders was not adapted to the new conditions of society in the fifteenth and sixteenth centuries. Although these Institutes have always been the glory of the Church, yet their rules prevented them from participating in many works of religion and charity which the changed conditions of society demanded. Hence arose organizations, clerical and laical, which devoted their united efforts to the welfare of the Church and its members, under a rule of life suitable to their aim but greatly unlike the established Institutes. These organizations the Church incorporated. While they could not be classed among the Religious of Solemn vows and of Cloistered life, they received the canonical title of "Congregations" pure and simple, in contradistinction to the ancient Orders. So, the ecclesiastical approval of one of the first of these Institutes specifices it, "congregatio de corpore cleri saeculari." [7]

A Religious Congregation, therefore, may be defined: A society, instituted and approved by ecclesiastical authority, in which the members profess to tend towards perfection by the practice of the three Simple and perpetual vows of poverty, chastity and obedience.[8] In such associations the true nature of the Religious state is preserved. They are, therefore, called in the language

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[5] Clem. of Alex., Paedagog., 17, in P. G. VIII, 320; Butler, "Lives of Saints"; Cassian, Coll. 2a Praefatio; St. Benedict's Rule, c. 77, 2; Gasquet, Monasticism.

[6] Heimbucher, Orden und Kongr. vol. I; Vermeersch, De Rel. Inst. et Personis, vol. I; Le Canoniste Contemp., vol. 25; Casquet, o. c.; Innocent III, Const. "In singularis"; C. of Trent, Sess. 25, c. 6 and 8.

[7] Const. "Ex commissa," Sept. 22, 1655.

[8] Ojetti, Synopsis Rerum Mor. et Juris Pont., N. 1512; Bastien, Directoire Canonique, n. 1.

of the Church and of Canonists, "Religious Congregations" in the strictest sense, and are "distinguished from the Religious Orders chiefly by the absence of the Solemn vows, by their less rigid mode of personal allegiance (vota simplicia), by their simpler organization and constitution, and by their freer intercourse with the world." [9]

There are, nevertheless, many Religious Institutes in which the vows are not perpetual but temporary; others in which only one vow, or more, is made, be it temporary or perpetual. These Institutes naturally lack the essentials of the Religious state, in the strict and traditional sense, and are only improperly called "Religious Congregations." [10]

When, furthermore, Religious Institutes are composed principally of clerics, law and commentators on law generally style them "Ecclesiastical Congregations." [11] Although they are placed in the category of Religious Congregations, yet, in virtue of Sacred Orders which their members receive, the Holy See frequently makes many exceptions and special legislation in their favor.[12] The status of all these Religious Congregations has been defined by Leo XIII, in his Decree "Conditae a Christo" (Dec. 8, 1900), and their place in Common law definitely determined. Notwithstanding the common element in all these Institutes, multiple diverging relations augment the difficulty in ascertaining the due application of ecclesiastical laws to these Religious Congregations. Hence petitions ever recur to the Holy See.

Still greater difficulties arise in regard to those numerous Congregations in which are professed no vows, but a mere oath of perseverance or a promise pure and simple. These organizations may consist of clerics or of laics. Upon ecclesiastical authorization

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[9] Hilling, Procedure of the Roman Curia, p. 219.

[10] Ojetti, l. c.; Bastien, l. c.; Vermeersch, De Rel. Inst. et Pers., p. 42.

[11] Vermeersch, o. c.; Sebastianelli, Praelectiones Jur. Can., vol. II, p. 353.

[12] Const. "Conditae a Christo" (Dec. 8, 1900) C. II, n. 9, 10, 11.

they become true Religious Associations and are, therefore, classed among the Congregations, but only in a very broad and improper sense.[13]

To these must be added another species of associations instituted by the Church for carrying on works of piety or of charity in the world without leading a common life under the direction of an authorized Superior. These, in official documents, are sometimes called Congregations but more frequently Confraternities.[14] This class of Congregations so-called is outside of our scope.

The basis of this treatise shall be the Religious Congregations of Simple vows, because they possess the common element which permits of generalization, viz., the Simple vows. Those communities, however, which have not the vows as a bond of perseverance, but receive ecclesiastical approval, strive for perfection under a common rule and live after the manner of true Religious, cannot be excluded from our investigation. In virtue of these common principles, ecclesiastical law, in most regulations, considers them on an equal basis. Where limitations or extensions are necessary, explicit reference is made to the exception. This procedure, we think, has become Rome's mode of action more and more in these latter years as will be evidenced throughout the dissertation.

May we then class the members of all the foregoing Congregations as Religious? Benedict XIV in his Constitution, "Quamvis justo" (1749), drew attention to the fact that the Sisters of the Anglican Congregation could not be called Religious because they made no profession of Solemn vows and retained no Cloister. By this act he simply declared the traditional practice of the Roman Curia and of Canonists. Gregory XIII made an exception

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[13] Vermeersch, l. c.; Ojetti, l. c.

[14] Ojetti, l. c., n. 1495; Vermeersch, l. c.

in favor of the Scholastics of the Jesuit Society.[15] But later legislation has at times ignored the distinction and designated as Religious all those who strive for perfection under a common rule of life, authorized and directed by the Church.[16] Expressions similar to the following are frequently found: "Religiosi votis temporaneis vel iuramento perseverantiae vel supra dictis promissionibus ligati, etc." [17] Here is but another instance in which technicalities yielded to custom, for common parlance never adopted any other appellation.

In regard to women Religious, in particular, the names "Nun" and "Sister" are frequently used promiscuously. Etymologically and canonically the word "monialis" (Nun), in the strict sense, is predicable only of persons in Solemn vows and the "Normae" of 1901 forbade its use except for such; but this, too, is applied to women in Institutes of Simple vows in which the papal Cloister is observed, and sometimes even to others.[18] However, late decrees draw a distinction between Nuns and Sisters in favor of the original classification, *i. e.*, Nuns are such as have the Solemn vows, or at least Simple vows which prepare them for the Solemn vows. All others are classed as Sisters.[19]

No strict distinction, on the contrary, is made of the term "Profession" of Religious life. Authors forbid the use of the term "Religious Profession" save in the case of Religious Orders

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[15] Const. "Ascendente Domino," 1584.

[16] Decr. "Dei providentis"; July 16, 1906; Const. "Sapienti consilio," June 28, 1908; Decr. S. C. de Rel., Apr. 5, 1910; aliud eiusdem, Nov. 21, 1908; Vermeersch, Periodisa, Vol. II, p. 101; Ojetti, De Rom. Curia; Decr. S. C. de Rel., Feb. 3, 1913.

[17] In the Response of S. C. de Rel., of Apr. 5, 1910.

[18] Vermeersch, De Rel., Inst., et Pers., p. 43; Periodica, Vol. VI, p. 60.

[19] Decr. "Cum singulae," May 16, 1911; Decr. "Cum de sacramentalibus," Feb. 3, 1913; Vermeersch, De Rel. Inst. et Pers., p. 443; Periodica, Vol. VI, p. 50.

to which it can be properly applied,[20] but Pius X does not hesitate to speak of Religious associations, "quae *professionem Religiosae vitae* retinendo, ingravescentibus Christiani populi necessitatibus multipliciter deserviunt." [21] And rightly so, for also in Congregations a public and solemn declaration confirmed by vow, oath, or promise is made by persons to devote themselves to God and His exclusive service according to the direction of the rules of the Institute.

Rules, finally, are norms, standards or guides of life. Canon law has standardized four rules, or better, four sets of rules, viz., that of St. Basil, that of St. Augustine, that of St. Benedict and that of St. Francis of Assisi. Along with these existed the rules of St. Pachomius, of St. Columbanus, of St. Anthony and of Cassian.[22] The first four norms became the general "Regulae" for Religious. Others were strictly forbidden as will be seen later. But Leo X broke away from the canonical prohibition by giving the Franciscan Tertiary Congregation a new rule of life. This, in 1877, was assigned by Pius IX to a new Religious Congregation in India. The "Canonical Regulae," therefore, possess great antiquity, and enjoy special ecclesiastical approval and the most extensive use.[23]

However, at various times and for different reasons other regulations, which emanated from the general Chapters and Superiors of particular Orders, were called "Constitutions," because they did not enjoy papal approval and were, moreover, intended only for special ends and purposes of particular Orders. This distinction between Rules and Constitutions is observed by authors when speaking of Orders or of Institutes possessing one of the ancient Regulae. But in other Religious Institutes the distinction is arbitrary. In fact, the S. C. EE. et RR. has repeatedly

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[20] Bastien, l. c., p. 3; Battandier, "Guide Canonique," p. 109.

[21] Decr. "Dei providentis," July 16, 1906.

[22] Gasquet, o. c.; Butler, o. c.

[23] Bouix, De Jure Reg., Vol. II, p. 544; Sebastianelli, De Personis, p. 351.

declared that it is unwarranted;[24] and, moreover, has repeatedly permitted and approved the statutes of Congregations when termed "Regulae." [25] The terms, "Rules," "Statutes," and "Constitutions," consequently, when applied to Religious Congregations are used synonomously, but the "Normae" of 1901 also demanded that the term "Constitutiones," and not "Regulae," be used in Congregations. If any distinction, then, is made between them, the reasons must be sought in the particular Institute rather than in Common law.

[24] Bizzarri, "Collectanea," 782; VIII, 2, 789; XIV, 10—791; XV, 6.
[25] Bastien, o. c., p. 3.

CHAPTER II.

An Historical Survey of Ecclesiastical Approval.[1]

The history of the Regular Orders has been written by different authors. Not the same can be said of Religious Congregations. And, indeed, it is not an inviting task to undertake, for many of the Institutes have disappeared entirely, leaving little more than a mere name to history. Others, while they have weathered the storm of ecclesiastical opposition, often lack the necessary and precise data from which their early struggles may be gleaned. Then the large number of these Institutes and the almost insuperable difficulties involved in obtaining the available facts, have kept many scholars from applying their talents and time to this work. It is not the purpose of this treatise to supply the deficiency. But the scope of our subject at least calls for a brief sketch of the origin, growth and approval of Religious Congregations in the light of ecclesiastical legislation.

Some strong arguments have been produced by several Canonists and Moralists to prove that the vows of the early Religious were all Simple.[2] One could therefore, with some show of authority class them among Religious Congregations in our sense. But it is a useless undertaking. One thing, though, seems certain, viz., that at the end of the twelfth century the Church acknowledged only the strict Religious Orders with Solemn vows. The basis for this is found in the Decretals which invariably speak of "Religiones" and "Religiosi Ordines."[3] Authors admit that

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[1] Vermeersch, De Rel. Inst. et Pers., vols. I et II; Periodica, vols. 1—7; cfr. Heimbucher, "Die Orden und Kongr," vols. I et II; H. Hohn, "Vocations," 2 vols.; Elinor Dehey, "Religious Orders of Women in the United States."

[2] Cfr. Ballay's article in Arck., f. k. k., tom. 17.

[3] C. 9, tit. 36, X. lib. III; c. 3, tit. 17, in 6°.

no explicit and absolute proof to the effect that these terms were used in the twelfth century exclusively in connection with Orders of Solemn vows is obtainable.[4] But the very fact that the Orders of that time have continued throughout the centuries, substantially unaltered, creates a very great presumption that at that time they were as we find them today, and, therefore, the above mentioned terms invariably signified only Orders with Solemn vows. Gratian draws a strict distinction between the Simple vows and the vow professed in Religion: "Hic distinguendum est quod voventium alii sunt simpliciter voventes . . . alii sunt, quibus post votum, benedictio accedit consecrationi, vel proposito religionis." [5] Bernardus of Pavia adds his authority to the same distinction.[6] Boniface VIII, however, definitely lays down the principle that vows taken in approved Societies are Solemn: "Illud solum votum debere dici solemne . . . quod solemnizatum fuerit per suceptionem S. Ordinis aut per professionem expressam vel tacitam factam alicui de religionibus per Sedem Apostolicam approbatis." [6] From these statements the conclusion is warranted that no Religious Congregations as such, *i. e.*, with only Simple vows, were acknowledged by the Holy See at the time of Boniface VIII in the thirteenth century.

The argument increases in weight when viewed in connection with the prohibition of joining any unapproved Order. Innocent III forbade not only the formation of new Orders, but also strictly prohibited persons from affiliating themselves to any unapproved Order: "Ne nimis religionum diversitas gravem in Ecclesiam Dei confusionem inducat, firmiter, prohibemus, ne quis de caetero novam Religionem inveniat sed quicumque ad Religionem converti voluerit, unam de approbatis assumat." [7] Notwithstanding

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[4] Sebastianelli, Praelectiones, de Pers., p. 357.

[5] Decretum Gratiani, c. Presbyt. 8, D. 27.

[6] Apud Vermeersch, De Rel. Inst. et Pers., Pars. I.

[6] C. unic. de voto, tit. 15, lib. III in 6°.

[7] C. 9, tit. 36, X. lib. III.

the peremptory decree of the Sovereign Pontiff and the IV Lateran Council, new Institutes did spring up and the Council of Lyons (1274) under Gregory X not only reiterated the law of Innocent III, but also decreed the disbandment of all Institutes founded since the Decree: "Ne aliquis de caetero novum Ordinem aut Religionem adveniat, vel habitum novae Religionis assumat. Cunctae affatim Religiones et Ordines mendicantes post dictum Concilium adinventos, qui nulla confirmatione sedis apostolicae meruerunt, perpetuae prohibitioni subjicimus et quatenus processerant revocamus." [8]

Among the condemned Societies are enumerated especially the Humiliati, The Poor of Lyons and the Beghards. But apparently some others persevered in spite of the regulations. Hence Clement V issued another proclamation condemning them.[9] The reason for this apparent severity of the Popes was not so much the great multiplication of new Religious Orders or Institutes (for good reasons justified new foundations) as the heretical doctrines and immoral practices prevalent in certain Institutes. This fact was known to Bishops and people alike. Hence John XXII was called upon to interpret the mind of the Holy See in the above mentioned condemnations, especially since many Institutes had arisen which deserved well of the Church. His declaration proclaims the "tolerari potest" of certain Institutes under the surveyance and jurisdiction of local Bishops: "Ceterum statum Beghinarum huiusmodi quos esse permittimus (nisi de his per sedem apostolicam aliter ordinandis existent) nullatenus ex praemissis intendimus approbare." [10] The Institute as such is not to be approved, the Pope continues, but under the conditions their mode of life may be permitted by the Bishops.

Congregations of this sort were, seemingly, the Dames of St. Andrew, the Beghines, Magdalenes, and Soeurs de la Misercorde

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[8] C. 3, tit. 17, in 6°.

[9] C. I, tit. 11, lib. III, In Clem.

[10] C. Unica, tit. 7, ex Extrav.

de Jesu. This latter Society struggled on against all opposition from the thirteenth century until the year 1627 when the Holy See finally granted it pontifical recognition.[11] Moreover many Associations of Tertiaries had arisen which were affiliated to one or another of the strict Orders and at times sought Papal approval. But it was reserved to Leo X to establish them on a solid basis of community life.[12] He acknowledged not only their good work, but wrote also a special rule for them which has become the norm for many Religious Institutes of women. As we saw in the last chapter, Pius IX assigned this same rule to a new Community of Sisters in India no later than 1877.

Prior to the sixteenth century, however, comparatively few instances are found where Community life was professed without the Solemn vows. But between the twelfth and sixteenth centuries many new Orders were authorized by the Holy See. Authors generally classify them as Friars, Canons Regular, Clerks Regular, and the so-called Second Orders of St. Francis, of St. Dominic, of the Carmelites, and of the Augustinians. These, however, espoused the mode of life sanctioned by the Church for many centuries in the form of strict Orders with Solemn vows.[13]

But the revolutionary spirit of the fifteenth and sixteenth centuries had a baneful influence upon all Religious life. Discipline had become lax in many Institutes and scandals not a few aroused the indignation of those in high places. The Tridentine reforms sought a renovation of Religious life and a return to ancient principles and traditions. Wherefore the Council of Trent decreed in session XXV, c. 1: "Hoc decreto praecipit ut omnes regulares, tam viri quam mulieres, ad regulae, quam professi sunt, praescriptam vitam instituant et componant, atque in primis quae ad suae professionis perfectionem, ut oboedientiae, pauper-

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[11] H. Hohn, "Vocations."

[12] Const. "Inter Cetera," 1521.

[13] Heimbucher, o. c.; Boudinhon, Le Canoniste, vol. 25 sq.

tatis et castitatis ac si quae alia sunt alicuius regulae et ordinis peculiaria vota et praecepta, ad eorum respective essentiam nec non ad communem vitam, victum et vestitum conservanda pertinentia fideliter observent." It is superflous to adduce the historical foundation for these specifications. Let it suffice that the Bishops were commissioned as the special delegates of the Holy See to see that the reforms were inaugurated and maintained, not only in Institutes which made no Solemn profession, but also in Monasteries and Orders: "Commendata monasteria etiam abbatiae, prioratus et praeposituraе nuncupatae, in quibus non viget regularis observantia . . . ab episcopis, etiam, tamquam apostolicae sedis delegatis annis singulis visitentur; curentque iidem episcopi congruentibus remediis . . . ut quae renovatione indigent aut restauratione, reficiantur." [14]

The Council of Trent heralds in a new era for Religious Orders and Institutes. Since its immediate effects were different on Institutes of men and of women, a clearer view will be obtained by taking each separately.

Institutes of Men.

Pius V responded to the Council of Trent by issuing regulations which would eradicate the abuses and innovations of Religious Institutes. But his means were radical and drastic. They permitted no temporizing. By the Bull "Lubricum vitae genus" (1568), Religious and Tertiaries were compelled to change their mode of life and the nature of their Institute. The determinate stand of the Holy See remained inflexible. The gist of the Bull is given in the following words: "Statuimus ut omnes et singuli . . . in communi et sub oboedientia voluntari et extra votum solemne Religionis viventes . . . professionem regularem solemnem emittere . . . et intra viginti quattuor horarum spatium palam et sponte deliberent et declarent." This mandate extended not only to the profession of Solemn vows, but also to

[14] Sess. 21, c. 8.

the choice of one of the four approved "Regulae" as decreed by Innocent III and Gregory X.

It is difficult in our day to measure the influence this legislation had upon the Religious life of the Institutes of Men, but tangible results were apparent at once. Not only were reforms effected but Institutes, organized contrary to the mind of the Church, were affiliated to the Orders of the Regular observance. Thus Pius V united a Franciscan Tertiary Community to the Regular Order.[15] In the wake of the Religious revival new Institutes arose and old ones sought pontifical approval. The Clerks Regular of the Mother of God were approved in 1574, an independent Discalced Carmelite Order in 1580, the Camillians in 1582, the Clerks Minor in 1588, the Clerks Regular of Pious Schools in 1621, the Marian Clerks Regulars in 1673, the Order of Penance in 1784, and the latest Order seems to be that of the Canons Regular of the Immaculate Conception in 1866.[16] The most checkered career of all these new Orders seems to have been that of the Clerks Regular of Pious Schools. Founded in 1597 at Rome, they united with the Clerks Regular of the Mother of God in 1614. This union was severed in 1617 and the Holy See gave them a separate approval in 1621. Dissensions within their own ranks induced Rome to dissolve them in 1646. Ten years later, however, a new and more flourishing Institute arose upon the ruins of the old. At present they number no less than two thousand members.

During these three centuries of Religious advancement, the Oriental Church has not manifested the same growth of the Religious life as the Western Church. It has added but little worthy of mentioning. In the year 1701 we find the Order of Mechitarians, or the Armenian Benedictines (founded at Constantinople) which is perhaps the only new Order since the Coun-

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[15] Cfr. Heimbucher, o. c.; Theol. Pract. Quartalschrift, vol. 65, p. 365; Zak, "Oesterreichisches Klosterbuch"; Holn, "Vocations."

[16] Ibidem.

cil of Trent. It received ecclesiastical recognition soon afterwards, but its Constitutions were approved as late as 1909. The ancient Order of Antonians, too, received new life and strength by having its Constitutions revised and approved by the Holy See in 1740.[17]

Did, then, the Religious Congregations of men disappear with the advent of reform? No. The conditions of the times, and the needs of the Church together with the aspirations of apostolic men to meet both, produced, with God's grace, organizations of men which the Holy See gladly received and guided. They were accepted, not indeed on an equal basis with the ancient Orders, but as divinely inspired Institutes destined to meet exigencies that the austere rules of the existing Orders could not well provide for. Their humble beginnings were naturally diocesan and therefore furthered by Bishops only. When their field of labor extended beyond the diocesan borders, a conflict, or at least an occasion for conflict, of Episcopal authority too often arose. This naturally led them to seek Roman approval and Roman jurisdiction. If the Institute's field of labor promised permanence, the Holy See hesitated not to receive it under her protecting mantle and, if necessary, modify or grant it an organization, rule and privileges suitable to its scope and purpose.

Thus hardly had the echoes of the Council of Trent and the Bull "Lubricum vitae genus" subsided, when the Congregations of the Oratorians (1587) and the Doctrinarians (1593) budded forth into a vigorous life under Episcopal authorization and which readily succeeded in winning recognition and approval from the Pontiffs of their times. The seventeenth century added the Congregations of the Pious Works (1601), the Lazarists (1625), the Eudists (1643), the Sulpicians (1658), and the Congregation of Missions (1658). With the advent of the eighteenth century the Religious attitude of the age and the Holy See favored a stricter discipline. Perhaps the Congregation of the Fathers of the

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[17] Ibidem; et Decr. S. C. de Prop. Fide, Aug. 6, 1909.

Holy Ghost (1703) must be excepted, but the other Religious Congregations of this century approached more and more the strict Orders. Such were especially the Passionists (1725) and the Redemptorists (1732). In consequence of their strict discipline and of their perpetual Simple vows, they obtained nearly the same rights and privileges as these Orders. Heretofore the Holy See had left intact the Episcopal jurisdiction in Congregations, but upon these strict Institutes She conferred full exemption, and in subsequent legislation ordinarily considered them as belonging in the same category with the strict Order.

In nearly all these Congregations the Simple vows were made. They were generally considered essential to community life. The nineteenth century, however, felt no repugnance in deviating even from this mode of Religious life. No doubt the turbulent status of civil society was the chief factor responsible. But be the cause what it may, no less than forty Religious Societies and Congregations sprang into existence, some at the instigation of Bishops, others upon the wish and suggestions of the Roman Pontiffs. Still others owe their origin to heroic souls who saw in them the best means of meeting the needs of the times.

Their bond of perseverance and obligations of leading a Religious life according to the counsels of the Master, consisted now in Simple vows, now in an oath, and quite often in a mere promise of fidelity.

The Holy See no longer manifested any hesitancy in sanctioning these Institutes when they had proved themselves profitable in the eyes of the Bishops and their work could be furthered by Her approval. Repeatedly the highest praises, special privileges, and extensive powers, where sufficient reasons warranted them, were bestowed without reluctance.[18]

These privileges, rights and limited exemptions followed not from Common law, but were granted in the particular Indults of

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[18] Meimbucher, o. c.; Boudinhon, "Le Canoniste," vol. 25 sq.; Bizzarri, "Collectonea"; Hilling, "Proceedings of the Roman Curia"; The respective "Decrees" of praise and approval.

approval. They varied according to the nature and scope of the individual Institute. But this very frequently caused considerable inconvenience, and at times occasioned no little confusion for both Bishops and Superiors. Hence Leo XIII sought to remedy the difficulties by laying down general principles and laws which must govern all Religious Congregations, Diocesan and Pontifical respectively. This legislation is incorporated in the Constitution "Conditae a Christo," dated and promulgated December 8th, 1900. To this "Corpus Juris" for Religious, numerous regulations have been added in subsequent years, so that the Congregations today find themselves on a full canonical basis nearly as well defined as that of the Regular Orders.

Under the benign guidance and favorable legislation of the Holy See, these Congregations of men have grown and developed to such an extent that they compare well, at least in numbers, with the strict Orders. To take cognizance of the Diocesan Institutes in such a comparison is hardly possible. But, according to statistics for 1913, there exist today some thirty-three Regular Orders of Knights, Monks, Mendicants, Canons Regular and Clerks Regular with a total membership of about fifty-eight thousand Religious. On the other hand, the Holy See has approved in these latter centuries some sixty-six Congregations with an aggregate membership of about fifty-nine thousand Religious.[19] This vast array of Clerics and Brothers lend their service to nearly every work of Charity and Religion within the Catholic Church which has for its domain the kingdom of the earth and for its inheritance the peoples of every tribe and nation and tongue.

Institutes of Women.

The lax Religious spirit of the fifteenth and sixteenth centuries had also invaded the Cloisters of women. The Council of Trent (Sess. 25, c. 5) renewed the strict legislation of Boniface

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[19] "Annuario Pontificio," 1915; Theol. Pracktische Quartalschrift, l. c.; H. Hohn, "Vocations for Men."

VIII[20] and commissioned the Ordinaries to enforce the strict observance of the Solemn vows and the papal Cloister.

But here, too, it was the great Pius V who was to inaugurate the actual reform. By his decree "Circa Pastoralis" (May 26, 1566), he sought to renovate Cloister life and force all Religious, even the Tertiaries, into Congregations to take the Solemn vows and observe the Cloister. Should any refuse and continue a life of scandal, the Bishops were empowered to mete out the severest punishment to compel submission. But let the Pontiff's own words show us the mind of the Holy See in introducing measures that gave new life and vigor to Religious Institutes and Orders: "Mulieres quoque quae Tertiariae seu de Paenitentia dicuntur, cuiuscumque fuerit Ordinis in congregatione viventes, si et ipsae professae fuerint, ita ut solemne votum emiserint, ad clausuram praecise, ut praemittitur, et ipsae teneantur; quod si votum solemne non emiserint, Ordinarii una cum superioribus earum hortentur et persuadere studeant, ut illud emittant et profiteantur ac post emissionem et professionem eidem clausurae se subiciant; quod si recusaverint et aliquae ex iis inventae fuerint scandalose vivere, severissime puniantur.

"Ceteris autem in omnibus sic absque emissione professionis et clausura vivere omnino volentibus interdicimus et perpetuo prohibemus, ne in futurum ullam aliam prorsus in suum Ordinem, Religionem Congregationemque recipiant. Quod si contra huiusmodi hanc nostram prohibitionem et decretum aliquas receperint, eas ad sic vivendum omnino inhabiles reddimus, ac illarum, quaslibet professiones et receptiones irritas facimus et annulamus."

The fruits of this legislation were soon manifest. Many of the Institutes returned to the ancient discipline or at least submitted to the letter of the law. The Society of the Jesuitissae was abolished by Urban VIII on account of the many intolerable

[20] Const. "Periculoso"; c. un. de statu regul., tit. 16, lib. III in 6°.

abuses that had crept into the Institute. The Carmelite Tertiaries, at least some of them, affiliated themselves to the strict Order of Carmelites.[21] The Ursuline Sisters had organized prior to Trent (1537) and had, moreover, also secured pontifical recognition as a Congregation. But the stringent demands of ecclesiastical authority induced them to adopt the Solemn vows and the papal Cloister during the pontificate of Gregory XIII in 1572. The Soeurs de la Misericorde de Jesu, as mentioned above, had struggled against the tide of ecclesiastical opposition and prohibition for centuries, but achieved papal approval as a Congregation in 1627. But in spite of this recognition they, too, were destined to yield to the importunities of authority and adopt the stricter mode of life. Wherefore they were raised to the rank of a regular Order in 1665.[22]

New Institutes arose in various parts of the Christian world which ever and anon sought the approval of the Holy See. The Society of "Notre Dame," the first teaching Community of women approved by the Holy See, was founded in 1606. Though they received pontifical recognition as a Congregation in the following year, they, apparently, like the Soeurs de la Misericorde de Jesu, were hampered in many ways on account of their unfavorable ecclesiastical status. At any rate, in 1608, we find them affiliating themselves to the strict Order of Benedictines.[23]

Prominent in the history of the seventeenth century stands the Order of the Visitation founded by St. Francis de Sales and St. Jane de Chantal. The amiable disposition of St. Francis sought to introduce into Religious life a spirit of greater gentility and attractiveness. He aimed to "secure the benefits of Religious life for persons who had neither the physical strength nor the attraction for corporal austerities at the time general in the Religious Orders." Consequently it was their wish to found a

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[21] H. Hohn, "Vocations."

[22] Ibidem; Elinor Dehey, "Religious Orders of Women."

[23] Hohn, Ibidem.

Congregation without the external vows or the obligation of the strict Cloister. But in spite of their laudable purpose they were compelled to yield to the persuasions of ecclesiastical authority. The rule of St. Augustine, together with the Cloister prescribed by Trent and Pius V, were imposed upon them in 1615.

In the following centuries but few new Orders arose. According to Dr. Hohn, however, the Sisters of St. Joseph (1650), the Sisters of the Blessed Sacrament (1639) and the Nuns of the Presentation must be mentioned. The Sisters of the Blessed Sacrament existed for about thirty years as a Congregation of Simple vows, but in 1669 were raised to an Order with Solemn vows and papal Cloister. Similar was the development of the Nuns of the Presentation. Founded in 1777 as a mere Congregation, Pius VII elevated them in 1805 to the rank of an Order.[24] Apparently this closed the period of new Orders of women.

These new Orders, however, were not the only Institutes of that time. The spirit of St. Francis de Sales commenced to permeate other saintly men and women. The conviction grew that the Master's counsels could be lived in Institutes of less severity than the rigid Orders. This would open the door to many chosen souls who were, for one reason or another, now barred from embracing the Religious life. Bishops in general did not check it. True, they realized that such Institutes would require careful guidance and strict supervision, but was this not their duty in regard to the entire flock entrusted to them? Hence Diocesan Institutes of Simple vows were multiplied, which, when their field of labor extended beyond the diocesan border, sought the protection and the approval of the Holy See.

Among these the sixteenth and seventeenth centuries produced the following:[25] the Sisters of St. Catharine (1571), the Anglican Sisters, famous in the Constitutions of Clement XI and Benedict XIV, the Company of St. Ursula (1606), the Sisters of Our

[24] Ibid.

[25] Ibidem et Bizzarri, "Analectanea" et Battandier, "Guide Canonique."

Lady of Calvary (1614), the Institute of Mary (1626), the Sisters of Martha (1634), the Sisters of St. Charles Borromeo (1651), the Soeurs de la Croix (1625), the Daughters of Calvary (1619), the Institute of Our Lady of Charity and Refuge (1641), the Daughters of the Immaculate Conception (1680), the Notre Dames of Montreal (1657), the Sisters of the Holy Child Jesus (1666), the Visitation Sisters of Ghent (1660), and the Sisters of Charity (1631). All but two of these received a certain recognition from the Holy See within the seventeenth century. Ferrari and Vermeersch, however, insist that the first *formal* approbation of *Constitutions* of Religious Congregations of Simple vows given by the Holy See, was that of Clement XI in the Brief, "Inscrutabili" (July 13, 1703), to the Constitutions of Anglican Sisters (Vermeersch, De Rel. Inst. et Pers., vol. I, p. 45). Probably the greatest difficulty was experienced by the Institute of St. Vincent de Paul. The Holy See was most insistent on making this Institute a strict Order and for many years refused to stamp it with ecclesiastical approval. St. Vincent, however, persevered in his efforts and finally his arguments prevailed with the Holy See. Time has proved the wisdom of his counsels, for the Sisters of Charity today outnumber any single Religious Order or Community within the Church. No less than seventy-five thousand heroic women, true to the principles and spirit of St. Vincent de Paul, devote their lives to the assistance of the poor and afflicted in almost every corner of the world.

The eighteenth century added about nine approved Institutes to the catalogue of Religious Congregations of women. But in the nineteenth century they multiply even more rapidly. Dr. H. Hohn in his work "Vocations" enumerates at least one hundred and fifty.

In all these Institutes the distinctive feature differentiating them from the strict Orders, is the change from the Solemn to the Simple vows and in many cases the absence of the Cloister. Vows, however, remained. They formed their very essence and generally their number was three or more. But in the seventeenth century we find an instance of a Society of Religious with only

one vow, viz., that of stability. This Institute was that of the Daughters of Calvary founded in 1619. In the following century the Holy See even approved the Sisters of Christian Retreat (1787) who made no vows—surely a mode of procedure hardly explainable when viewed in the light of former legislation.

Here it must be noticed that Rome's approval of Religious Congregations for women was for many centuries only a qualified one. John XXII, as seen above, permitted certain Institutes to exist under Episcopal jurisdiction, but expressly added that he nowise meant to approve their Institutes. This attitude of the Holy See continued throughout many centuries. In the famous Constitution, "Quamvis justo," Benedict XIV repeats the position of the Holy See in the following words: "Earum conservatoria tolerari quidem ab hac apostolica Sede, sed Institutum ipsum nec approbatum nec confirmatum est (esse); obsistentibus Sacris Canonibus et generali Constitutione Sancti Pii V, ne religiosae mulierum Domus Apostolica confirmatione stabiliantur, quae se perfectae clausurae legibus non obstrinxerint." In 1816 the Sisters of Charity of Jesus and Mary petitioned the Holy See to approve their Rules and Solemn profession. This would have been equivalent to an approval of the Institute. Hence the Holy See still refused such a request and simply answered that the Rules "Plane commendandae . . . et laudabili fini plurimum accomodatae" (Sept. 24, 1816).

Roman approval of an Institute's Constitutions up to the 19th century invariably added the explicit words: "Citra tamen approbationem conservatorii." But in the beginning of the ninteenth century the traditional phrase began to be omitted, though no formal approval was yet given. The first formal approval of an Institute does not appear before 1821. According to Bizzarri this was bestowed upon the Institute of the Daughters of the Blessed Virgin Mary (Collectanea, p. 861).

Furthermore Roman approval has more and more eliminated the multiplication of independent Religious houses, and placed a general and supreme power in a Superior General. In the Constitution "Quamvis justo," which opens the new era for Re-

ligious Congregations, Benedict XIV expressly emphasizes that he is not speaking of Institutes under a general direction (of which he mentions but four as existing at his time) but of diocesan Societies: "Nec agitur de tali superiorissa generali, quae amplam quandam jurisdictionam in subditas exercere, ipsaque ab ordinaria Episcopi auctoritate exempta esse debeat." What is here referred to as an exception, has become in the last century a fairly general rule and the former rule a very rare exception. New Religious Congregations are placed under the immediate care and direction of the Holy See to increase efficiency and to provide better government. Therefore general laws are laid down to facilitate Roman recognition. Therefore, too, the time-worn phrase "citra tamen approbationem conservatorii" has disappeared and independent houses of Religious are diminished more and more. Leo XIII exerted the greatest influence in this direction. From particular and tried precepts he has formed general laws. His successor, Pius X, has added to this general legislation so that almost every phase of Religious life, at least the external relations, has been generalized and harmonized as will appear more explicitly as these pages increase.

What percentage of the actually existing Religious bodies is thus minutely ruled and directed by the Holy See, is difficult to say. The number, status and personnel of all the Diocesan Institutes within the twelve hundred Dioceses of the Catholic world, is yet unwritten history.[26] But one can hazard a comparison when considering the many Institutes and their inmates within our country.

The first Religious Community of women in what is now the United States seems to have come from France. The Governor of New Orleans urged the Ursuline Nuns of Rouen in 1726 to accept the appeal of the American French to institute a Monastery in the New World. According to the authoress of "The Religious Orders in the United States," these Ursuline Nuns

[26] "Annuario Pontificio," 1915.

were the pioneers of the virginal soil in the United States. They opened the first educational institution for young women, the first orphanage and the first hospital in the United States in that same year. In the Colonies of the Eastern shores, several young maidens had crossed the Ocean and joined the exiled English Carmelites at Antwerp. With the declaration of religious freedom in our country, the Rev. Ig. Mathews of Washington wrote to the Mother Bernardina of the Carmelites of Antwerp (his sister): "Now is the time to found in this country, for peace is declared and religion is free." The result was the establishing of a Carmelite Community near Port Tobacco, Md., 1790. Two years later some Poor Clares were driven from France and sought a home on our shores. They founded a convent at Georgetown, but for some reason or other their venture proved a failure and the good Nuns were recalled to their European home in 1800.[27] However, the abandoned convent became the home of the first American Religious Congregation. A certain Miss Labor, of Philadelphia, under the guidance of Father Neale, later Bishop Neale, was its foundress. With the advice of Father Neale the young Community of teachers chose the Visitation Rule of St. Francis de Sales. Bishop Carroll in 1808 advised Bishop Neale to prescribe the Simple vows for the new Congregation. Yielding to the wishes of Bishop Carroll, the Sisters took their first Simple vows. But it was the desire of Bishop Neale to introduce the entire régime of the Visitations. Consequently he obtained from the Holy See in 1816 the privilege of changing the Community into the Order of the Visitation with Solemn vows and Cloister. The new foundations of the Visitations Nuns in Mobile, St. Louis and Kaskaskia likewise inherited the privileges of their Mother house.[28] But outside of these the strict Orders of women have never been permitted to perpetuate their Institutes with Solemn vows in the United States.

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[27] E. T. Dehey, o. c.; H. Hohn, o. c.

[28] E. T. Dehey, o. c.; C. of Baltimore II, 1866; Sabetti-Barrett, Theol. Mar. p. 417.

With the founding of the Sisters of Charity by Mother Seton in 1809 at Emmittsburg, Md., and the Sisters of Loretto by Father Nernickx, in 1812 at Harden's Creeks, Ky., that flourishing Religious life of the Church in the United States began.[29] Its growth has developed so wonderfully that today more than one hundred and fifty Religious Communities with a total membership of more than seventy thousand Sisters—besides the many novices and postulants—devote all their efforts to the furtherance of Catholic life and progress in every part of the country.[30] The Church as a kind Mother appreciates their work and in the person of the Sovereign Pontiff praises them and bids them prosper: "Profecto sodalitatum istiusmodi tam bene de Ecclesia deque ipsa civili societate merentium, sperandum est, numquam defuturam copiam: hodieque libet agnoscere, usque adeo eos increbuisse, ut nullum videatur esse ministrandae caritatis christianae genus, quod illae reliquum fecerint." [31]

[29] E. T. Dehey, o. c.
[30] Catholic Directory for 1915.
[31] Motu proprio: "Dei providentis," July 16, 1906.

CHAPTER III.

The Founding and Approval of Religious Congregations.

The law of Innocent III, laid down in the Lateran Council, has never been abrogated and therefore constitutes the norm of present ecclesiastical discipline: "Firmiter prohibemus nequis de caetero novam Religionem inveniat." [1] The same was repeated by Gregory X in the Council of Lyons: "Ne aliquis de caetero novam Ordinem aut Religionem adinveniat." [2] The founding, consequently, of a new Order with Solemn vows certainly requires the explicit consent of the Holy See. The greater number of Canonists interpret these canons as extending also to Religious Congregations.[3] But, notwithstanding the prohibition, new Institutes arose even under the tutelage and the approbation of Bishops. Upon this custom the Holy See looked silently for many centuries, thus permitting it to grow into a definite law which Leo XIII formally acknowledges in the Const. "Conditae a Christo." He says: "Some Congregations have obtained the approval of Bishops . . . and others have besides this a decree of the Roman Pontiff issued in their favor; the former have been established and exist by the sole will of the Bishop . . . It is therefore the Bishop's privilege not to receive into his diocese any newly founded Congregation before he knows and has approved its rules and constitutions."

In 1906 Pius X qualified the rights of Bishops in regard to founding or permitting the foundation of a new Institute.[4] In

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[1] C. 9, tit. 36, X, lib. III.

[2] C. 3, tit. XVII, lib. III, in 6°.

[3] Sebastianelli, De Personis, p. 358; Suarez, de Relig. T. III, 1.

[4] Motu proprio, "Dei providentis," July 16, 1906.

the first article of the "Motu proprio," he lays down the principle: "Nullus Episcopus aut cuius loci Ordinarius, nisi habita Apostolicae Sedis per litteras licentia, novam alterutrius sexus sodalitatem condat aut in sua dioecesi condi permittat." Bishops, Abbots Nullius, Vicars Apostolic and Prefects Apostolic are therefore denied exercise of their right of founding a new Religious Institute without the consent of the Holy See.

No doubt exists in the minds of Canonists that by the terms, "Sodality," "Family," and "Religious Institutes," the decree embraces all Religious Organizations that lead a life after the manner of Religious. Whether or not the vows, oath, or mere promise form the bond of union and perseverance, matters nothing in the present legislation. The Holy See simply prescribes that, in the foundation of every Religious Institute, she must be consulted through the proper Congregation.

The Roman Congregation competent, according to the decr. "Dei providentis," to receive and deliberate upon the application of the Bishop, was the S. Congr. EE et RR. But with the reorganization of the Roman Curia in 1908, this Congregation has been abolished and its work divided among several Congregations. Under the present arrangement the S. Congr. de Religiosis discharges the affairs of Religious and therefore ordinarily examines and approves the application for new Institutes.[5] The modifications and exceptions to this general law will be treated later, when we speak of pontifical approval.

What the Congregation wishes to examine (and therefore also demands the corresponding information in the application) is especially the name, the character and purpose of the proposed Institute and of its founder. Then, in regard to the members of the prospective society, the habit for the Novices and the Professed respectively must be specified. Finally, the principles and rules which form the basis for this approbation must be drawn from the Const. "Conditae a Christo," and the "Normae" of 1901.

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[5] Const. "Sapienti consilio," June 28, 1908.

The decr. "Dei providentis" admonishes Bishops to keep these same prescriptions in mind, when they approve the rules and constitutions of new Institutes. This admonition hardly means that the "Normae" must form the sole rule for every Community, because the purpose and scope of an Institute may not permit this. Then, too, posterior legislation has frequently laid down general laws in contradiction to them. But it seems that the Holy See intends that the statutes of future Congregations shall harmonize with the "Normae" wherever possible.

It is self-evident that neither the Ordinary nor the Institute itself may change anything that the Holy See has passed upon. For such a change requires the consent of the Holy See.[6] However, this quasi-approbation does not withdraw the Institute from the jurisdiction of the Bishop. It remains entirely subject to the Bishop in accordance with the principles of the "Conditae a Christo," except only in matters already determined by the Holy See.

What then is pontifical approbation proper? According to Leo XIII, it is the favorable recognition and approval of the rules and constitutions of an Institute by the Holy See.[7] The approbation of only the Institute, exclusive of the rules and constitution, constitutes a truly papal approval, but an imperfect one. In virtue of this action of the Holy See, "it is necessary that the Bishop's authority should be regulated and restricted within certain limits. What these limits should be may be gathered from the manner in which the Holy See approves similar associations, and which consists in approving a Congregation as a Religious Society with Simple vows under the authority of a Superior General, without prejudice to the jurisdiction of the Ordinaries, according to the sacred canons and the Apostolic Constitutions." [8] The Const. of Leo XIII calls this intervention

[6] Decr. "Dei providentis," July 16, 1906.
[7] Const. "Conditae a Christo."
[8] Ibid.

of the Holy See "comprobatio," as it were, acknowledging the approbation of the Bishop.

It is well here to draw attention to some necessary distinctions. We saw above that the Holy See has approved and adopted four "Rules," and forbidden the introduction of new ones, at least for Orders. Now, many Congregations have chosen one of these "Regulae" for their norm of life. This chosen and approved Rule must not be confounded with the approval spoken of by Leo XIII. The III Plenary Council of Baltimore declares that the adoption of an approved Rule does not withdraw an Institute from the jurisdiction of the Ordinary: "Instituta dioecesana . . . licet Regulam a S. Sede approbatam sequantur, dependent ab Ordinario." [9] The same must be said of Institutes which adopt the "Normae" of 1901 for their exclusive rule. Although the Holy See has framed the aforesaid "Normae" and commanded that they should be the models for future Institutes, yet such adoption does not constitute an approved Congregation.

Furthermore, as the preliminary examination and permission required by the decr. "Deo providentis" does not constitute approval in the sense that the Institute becomes pontifical, so also Rome's formal praise of the founder's intention or of the Institute's work, cannot be understood as pontifical approbation. The "Normae" (Art. 1) say such an Institute "manet in statu privati et omnino dioecesani sodalicii." Now, the process of approval will appear clearer.

The practice of the Roman Curia permits of four stages in the process of approving an Institute. The decrees expressing the nature and extent of this pontifical approbation are termed respectively "Decretum laudis," "Decretum approbationis instituti," "Decretum approbationis constitutionum ad experimentum" and finally "Decretum approbationis definitivae." [10] The significance of the different decrees is quite evident. The "Decretum *laudis*"

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[9] III. C. Balt. n. 93; Sebastianelli, l. c., p. 358.

[10] Normae, Art. 2-4.

embodies a general praise and recommendation of the Institute, and places it under the direct jurisdiction of the Holy See, at least for the time being, until a more thorough investigation of the Institute and its Constitution has been made.[11] This transitory stage is terminated by the "Decretum *approbationis instituti.*" Frequently the two pronouncements are combined in the one decree of praise and approbation.[12] At any rate its import is to assign a definite and canonical status to the Institute with the authoritative declaration that the Institute contains nothing contrary to good morals or propriety, and that, per se, it is calculated to lead its members to perfection.[13]

By the "Decretum *approbationis constitutionum ad experimentum,*" a certain number of years are prescribed for testing the practicability of the rules,—generally from five to ten. After the lapse of this period, and when due corrections have been made, the "Decretum *approbationis definitivae*" will be given.[14] This decree renders the rules "canon law and a public and solemnly recognized way of perfection." [15] The word "law" must here be taken in its directive, and not preceptive, sense, for even after this approval the rules do not "per se" bind under sin: "Ipsas per se sub nullo culpae reatu obligare; non tamen excusare a culpa eum qui easdem transgrederetur ex contemptu vel in materia contraria votis Dei Ecclesiaeve praeceptis." [16]

Note that this ordinary procedure is not always followed. Some times the Holy See omits all preliminaries and includes in a single decree the various approbations.[17]

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[11] Ibid., Art. 2.

[12] Ibid., Art. 6.

[13] Suarez, de Rel., VII, II, XVII, n. 17.

[14] "Normae," aa. 21, 22; Vermeersch, de Rel. Inst. er Pers., Vol. II, c. 2, n. 13.

[15] Vermeersch, Cath. Encycl. under "Religious."

[16] "Normae," Art. 320.

[17] Ibid., Art. 23; Vermeersch, o. c., Vol. II, c. 2.

The conditions and formalities required on the part of the applicant for obtaining the pontifical approbation are not clearly and definitely laid down in the Canon law. But ordinarily the Holy See will readily approve an Institute, "positis ponendis," the activity of which extends to two or more dioceses. For in this case an occasion for a conflict of authority arises which generally hampers effectiveness. This principle is certainly deducible from the Const. "Conditae a Christo." Furthermore, the Latin-American Council (1899) gives the same reason for inducing such Institutes to seek pontifical approbation.

But the nearest approach to positive formalities, are the norms laid down by the Holy See to guide the "Commission" in approving new Institutes and their constitutions.[18] They are, therefore, indirectly imposed upon every Institute seeking approbation.

The first requisite demanded by the "Normae peculiares" (March 4, 1914) comprises a full account of the personal, moral, and economic status of the Institute. No specific directions are given. Evidently a complete answer to the ninety-eight questions of the "Instructio" (July 16, 1906), which refers to the triennial account of the Religious Congregations to the Holy See, would very probably meet all the demands of the S. Congregation. Since, moreover, Institutes founded after 1906 are expected to be conformable to the "Normae" of 1901, the Holy See can well demand a report on the actual agreement or disagreement with these norms.

Next in importance are the testimonials from the various Bishops in whose dioceses the Institute is located. The Holy See insists on those for the reason that pontifical sanction entails a diminution of episcopal authority and jurisdiction. Prudence, therefore, requires that the Ordinary's viewpoint and report be presented and considered.

The chief work of the Apostolic See is necessarily centered on the constitutions of the Institute. For this reason the Holy See

[18] "Normae peculiares," March 24, 1914.

deems it necessary that ten copies of the same accompany the application so that the various examiners may be accommodated. It goes without saying that this work involves considerable expense. Hence sufficient funds must be deposited to cover the possible outlay.

In case the information forwarded to the Holy See is insufficient, the moderator of the Community must supply the deficiency by obeying a summons to appear personally before the board of examiners.

According to the present discipline the S. Congr. de Religiosis possesses the right and duty to approve New Institutes and their Constitutions.[19] The "Normae peculiares" supplementing the Const. "Sapienti consilio" say: "Decretum quo laudatur probaturque institutum aliquod, et decretum approbationis constitutionum, itemque substantialis mutatio quaevis in iam probatis institutis inducenda, ad plenam congregationem semper pertinent," *i. e.*, Congregationem de Religiosis. This was modified by a later decree of the Holy See which created a special Commission for the sole object of approving Religious Institutes and their constitutions.[20]

The personnel of this Commission is composed of the Cardinal Prefect of the S. Congregation for Religious and a board of consultors chosen by him from among the regular consultors of the same Congregation. According to the "Annuario Pontificio" for 1915, six consultors serve on this Commission.

Its competency is defined by the decree as embracing "omnia quae ad novi cuiuslibet Instituti votorum simplicium, euisdemque constitutionem examen et approbationem attinent, nisi speciali ex causa, vel exortis inter commissionis consultores gravibus opinionum discrepantiis, Cardinalis Praefectus opportunius iudicaverit ad E'morum Patrum coetum rem deferre." A literal interpretation does not show this faculty to be coextensive with

[19] Const. "Sapienti consilio," June 28, 1908.
[20] Decr. "Peculiari curae," March 24, 1914.

the powers of the S. Congr. de Religiosis on the same subject-matter as defined in the "Normae peculiares," c. VIII, a. V, n. 6, of 1908 (q. v. supra). For no mention is made of the "substantialis mutatio quaevis in iam probatis institutis inducenda." Besides explicit reference is made only to "Instituta Votorum Simplicium." Apparently, however, the purpose of the law embraces also Institutes without vows, as well as deliberation on notable changes proposed on constitutions already approved. For the express intention of the legislator is to relieve the Congregation of this subject-matter except in extraordinary cases of disagreement when the affair must be submitted to the entire Congregation. There seems little doubt that when such cases arise, the new Commission will have little difficulty in disposing of them.

Here another doubt suggests itself in regard to the quasi-approval required for the formation of diocesan Institutes. It seems reasonable to infer that the Commission will likewise fall heir to this duty. For it would be rather strange if the entire Congregation were to examine and direct the initiative steps of an Institute, but afterwards assign the complete approval to the Commission.

The Commission, in the entire mode of procedure, is in the hands of the Cardinal Prefect of the Congregation.[21] He appoints the Secretary of the Commission, and directs all documents and testimonials to be delivered to him. He designates one of the consultors to make a thorough study of the documents and the constitutions. The result of his investigation, together with a printed copy of the constitutions, are transmitted to each of the associate consultors. These, in turn, are given ten days consideration. Thereupon the entire Commission meets to discuss in detail the merits and demerits of the Institute and its Constitution. The principals to guide them in their deliberation are those laid down in Common law, Pontifical Constitutions and especially the "Normae" of 1901. Of prime importance, how-

[21] "Normae peculiares c."

ever, are the constitutions "Conditae a Christo," "Dei providentis," "Sapienti consilio," and "Romanus Pontifex." After the matter has been thoroughly considered, each consultor is obliged to set forth his opinion in the general assembly. Should it be impossible to agree in essential matters the case is to be referred to the entire Congregation. Finally, the result is communicated to the Religious Institute, after the approval of the Holy Father has been granted.

It is well known that prior to the Const. "Sapienti consilio," Religious Institutes whose mother house was situated in the territory of the S. Congr. de Prop. Fide, as well as those Institutes whose special aim was the mission-field proper, were subject to the S. Congregation for the Propagation of the Faith. It therefore also approved new Institutes and their Constitutions. But with the Introduction of the new discipline this Congregation's competency with regard to Religious was limited even within its own territory: "Quod vero spectat ad sodales religiosos, eadem Congregatio sibi vindicet quidquid religiosos qua missionarios, sive uti singulos, sive simul sumptos tangit. Quidquid vero religiosos qua tales, sive uti singulos, sive simul sumptos attingit, ad Congregationem religiosorum negotiis praepositam remittat aut relinquat." [22] From this it seems that the approval of Religious Institutes, other than purely missionary Communities and those of the Oriental Rite, is no longer proper to the S. Congr. de Prop. Fide. These two exceptions are verified by the S. Congr. de Prop. Fide approving the Constitutions of the Armenian Mechitharists in 1909, and the Missonary Society of Maryknoll in the United States in 1915.[23]

In concluding this chapter it may be expedient to refer briefly to Institutes whose status is doubtful. The Const. "Conditae a

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[22] "Sapienti consilio," P. I, c. 9, art. 6; cfr. Ojetti, o. c., p. 100; Capello, o. c., p. 230.

[23] Decr. S. C. de Prop. Fide, Aug. 6, 1909, and the "Decr. laudis et approbationis," July 15, 1915.

Christo" makes no infringement on existing customs and privileges: "Nihil penitus derogari volumus de facultatibus vel privilegiis . . . immemorabli aut seculari consuetudine confirmatis." If, therefore, an Institute possesses no positive proof of pontifical approbation, it must be considered a diocesan Institute, for the Bishop's ordinary rights cede only to positive proof to the contrary. Again, what of approved Institutes over which the Bishop has exercised full jurisdiction since the Const. "Conditae a Christo"? It is a principle of Canon law that jurisdiction can be acquired by custom; and probably ten years suffice for this. If, therefore, a Bishop has exercised jurisdiction over an approved Institute for ten years, it follows that notwithstanding the "Decretum laudis et approbationis," the Institute is truly diocesan.[24]

[24] Vermeersch, Periodica, Vol. VIII, p. (28).

CHAPTER IV.

Entrance Into a Religious Congregation.

Entrance into a Religious Congregation is the admission of a candidate in due form by competent authority. This may also be called external vocation to the Religious state. No one has a strict right to be admitted into a Religious Society, no matter how holy his intention or how urgent his desires. Pius X has sanctioned this truth in regard to the sacerdotal state: "Neminem habere unquam ius ullum ad ordinationem antecedenter ad liberam electionem Episcopi." [1] What is here affirmed of the ecclesiastical state holds also for the Religious state.[2] Superiors, consequently, violate no principle of justice by refusing admittance to any candidate. But may this not be an infringement on the right of a divine vocation? Vermeersch says, in commenting on the decision of the Roman commission in regard to vocations: "Ipsis (superioribus) integrum est ex utilitate . . . Instituti . . . de admissione sententiam ferre quae nullum ius violat, et quae vocationem perficit quatenus sola effecit ut quisquam re vera sit . . . religiosus. Et fit ut quis sancte moveatur ad statum petendum . . . religiosum, qui tamen iuste repellatur. Deus ipse interdum desideria inspirat quae opere compleri non permittit. Quare theologi voluntatem *signi* a voluntate *beneplaciti divini* distinguunt." [3]

Anyone, however, who is not hindered by an ecclesiastical impediment may be admitted to Religious life. On the part of the postulant, no more than a good intention and a firm resolution of

[1] Litterae ex Secretaria Status, July 2, 1912.
[2] Vermeersch, Periodica, vol. VI, p. 262, sq.
[3] Ibid., p. 264.

serving God in that state together with the necessary moral, mental and physical qualities, is required. This is clearly stated by the decision of the same Roman Commission: "Nihil plus in ordinando, ut rite vocetur ab Episcopo, requiri quam *rectam intentionem* simul cum idoneitate in iis gratiae et naturae dotibus reposita, et per eam vitae probitatem ac doctrinae sufficientiam comprobata, quae spem fundatam faciant fore et sacerdotii munera recte obire eiusdemque obligationes sancte servare queat; esse egregie laudandum." Certainly no more is demanded for the Religious state. Fr. Vermeersch says of these conditions: "Haec qui habeat ingressum . . . in religionem postulare potest, immo et eo laudabilius postulabit quo in dicto statu consilia Christi magis presse sequatur." [4] Aside, therefore, from God's grace which begins, accompanies and perfects every good act, internal vocation proper is more the "result of deliberation according to the principles of reason and faith" than the effect of individual aspiration or the internal movements of the Holy Ghost. In extraordinary cases, however, "supernatural light may be so abundantly shed upon the soul as to render deliberation unnecessary." As to the Priesthood the contrary is expressly denied by the Holy See: "Conditionem quae ex parte Ordinandi debet attendi, quaeque Vocatio Sacerdotalis appellatur, nequaquam consistere, saltem necessario et de lege ordinaria, in interna quadam aspiratione subiecti seu invitamentis Spiritus Sancti, ad sacerdotium ineundum." [5]

The mental, physical and moral qualities, or as the above mentioned Letter expresses it, the "idoneitas in iis gratiae et naturae dotibus reposita, et per eam vitae probitatem ac doctrinae sufficientiam comprobata," are provided for by natural and ecclesiastical law in the form of impediments which render the Religious profession invalid or illicit respectively.

[4] Ibid.
[5] Lit. cit., supra.

Formerly the Religious profession in an Institute other than the approved Orders was both illicit and invalid in virtue of ecclesiastical law.[6] But this prohibition has long since passed into desuetude as was seen in the last chapter. It, therefore, need no longer be reckoned with as an impediment. All Religious Institutes approved by Bishop or by Pope are "per se" open to the aspirant to the Religious life.

The perfect use of reason, however, is so essential for the Religious profession that its absence constitutes a natural impediment which in no wise can be dispensed with. It matters little whether its cause be immaturity or a physical defect. The weighty obligations assumed in Religion require full deliberation, the lack of which, by the natural law, bars a person from becoming a Religious. It is hardly necessary to refer to the antiquated custom of parents offering children to Religion in fulfillment of a vow. These "Oblates" never became Religious except by their own free act upon attaining the use of reason. This ancient custom has no practical value today, since it is merely a question of history and opposed to all ecclesiastical practice and legislation.[7]

On the contrary the Church requires in the candidate for Religion an age and a development which, under normal circumstances, insure not only full use of reason, but also stability of character. The Council of Trent demands that the Solemn profession of Religion be not made before the completion of the sixteenth year (Sess. XXV, c. 16). Pius X forbids lay Brothers to make the perpetual profession before their thirtieth year ("Sacrosancta," Jan. 7, 1911). Truly, neither of these laws directly include Congregations. But they are at least directive for all Religious Institutes (Wernz, o. c. vol. III, n. 628 and in note 222). Moreover, in the absence of a general law for Religious Institutes in this matter, the Holy See is accustomed to insert the law of Regulars in the special indults of ap-

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[6] Supra. c. II, pp. 17, 18.

[7] Wernz, "Ius Decretalium," vol. III, n. 628 and in note (188).

proval (Wernz, o. c.; Battandier, o. c. n. 57). In Institutes of clerics, however, the Holy See requires to be observed not only the age limit of Trent but also the completion of the gymnasium course of studies (Decr. S. C. de Rel. super "Auctis admodum" art. 6, Sept. 7, 1909). In countries which have not the Italian system of education and grading, this would be equivalent to the completion of those studies which precede the philosophical course according to the particular systems (Vermeersch, Periodica, vol. V, p. 44).

But not all persons capable of choosing the Religious state, have access to it. One cannot become a participant of the spiritual favors of the Church unless he be in communion with Her. Hence, since infidels, heretics, schismatics and excommunicated are incapable of receiving the graces of Religion, while they remain so, they are by ecclesiastical law forbidden to be incorporated into a Religious Institute.[8]

There are other persons whose duties in life prevent them from entering Religious Orders and Institutes. Among these, persons in wedlock may be considered as taking the first place. Common law, however, makes some exceptions especially in favor of the strict Orders. Thus "per se" a married person could enter Religion with the consent of the other party. Again, if one had forfeited the rights of Marriage by adultery or by apostasy, the other party, "positis ponendis," is free to choose the Religious state.[9] Some Canonists are not at all certain that this regulation in Common law may be vindicated in favor of Religious Congregations.[10] The same uncertainty prevails in extending the privileges of Common law which grants persons in wedlock two months within which they may choose the Religious state provided the

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[8] Decr. S. C. EE. et RR., Nov. 25, 1898, in Anal. eccl. T. VII, p. 284; Wernz, o. c., vol. III, p. 295.

[9] Wernz. 1. c., n. 628; Sebastianelli, de Pers, p. 370.

[10] Wernz. 1. c.; Bastien, o. c., p. 45; Battandier, o. c., p. 58.

marriage is not consummated.[11] But it is certain that a ratified (ratum) marriage is not dissolved by the profession of Simple vows.[12].

Closely related to the matrimonial bond is the contract of betrothment. It is generally admitted that the sponsalitial contract does not bind in prejudice to Religious life, even in Institutes where the Religious state exists only imperfectly.[13]

When the state of Matrimony is blessed with children, there arises such an intimate bond between parents and children, and also between brothers and sisters, that at least their extreme needs must be provided for even at the sacrifice of joining, or at the expense of deserting, the Religious life. This has always been the teaching of the Church and Moralists. In the case of brothers and sisters, however, the voice of nature is not so urgent as in the case of parents, at least not when there arises only a grave necessity which could be provided for otherwise. But even then Theologians without hesitation maintain that one should, or at least may, postpone entrance into a Religious Institute.[14]

A union similar to that of wedlock exists between the spiritual pastor and his flock. Wherefore the sacred Canons prohibit the Bishop, even a Titular, from entering Religion without the special permission of the Holy See.[15] As to priests and clerics the privilege renewed by Benedict XIV obtains: "Clericus potest transire ad Religionem, non petita licentia, etiamsi contradica-

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[11] c. 7, Tit. 32, X, lib. III; Gasparri, de Matr. n. 437, Noldin, Theol. Mor., vol. III, n. 522; and De Sexto, n. 84.

[12] C. of Trent, sess. XXIV, can. 6, de ref.; Wernz, 1, c.; Bargilliat, Praelectiones J. C., n. 1106; Sebastianelli, I. c., p. 369.

[13] Gasparri, o. c. vol. I, n. 145, 146; De Smet, "Betrothment and Marriage," vol. I, p. 30; Wernz. o. c., vol. III, n. 628.

[14] St. Thomas, "Summa," II, II, q. 169; St. Alphonsus, Theol. Moral., lib. VI, 66; Wernz, l. c.; Bastien, o. c., n. 86.

[15] C. 18, Tit. 31, X, lib. III; C. 2, Tit. 7, X. lib. III; C. 10, Tit. 10, X, lib. I; Benedict XIV, Const. "Ex quo," Jan. 14, 1747.

tur." [16] Since this privilege refers to the perfect Religious state, Institutes, in which the three perpetual vows of poverty, chastity and obedience are not made, are excluded: "Nous ne pensons pas," says Bastien, "que l'on puisse étendre ce privilege aux associations des prêtres qui n'emettent pas les trois voeux. p. ex. les Lazarists, les prêtres de St. Sulpice, etc., le mobile de la dispense faisant défaut." [17] The Holy See excepts from the general privilege students of some Pontifical Colleges and priests ordained "sub titulo missionis." As to the students of such Pontifical Colleges the following oath must be taken: "Spondeo et iuro, me, quandiu hoc in collegio commorabor, et postquam, sive studiis expletis, sive, secus, quavis de causa, inde discessero, nulli religiosae familiae aut societati vel congregationi regulari nomen daturum, nec in earum ulla professionem emissurum, sine speciali Apostolicae Sedis licentia." [18] A similar oath is generally taken by candidates for the priesthood "sub titulo missionis." [19] Wherefore the Holy See has declared: "Eis, qui hoc titulo (Missionis) sunt ordinati, vi praestiti iuramenti interdicitur in Religionem ingredi absque venia S. Sedis." [20] Consequently the oath is licit and binding even in prejudice of a higher state. But from the S. Congregation's response it is evident that clerics ordained under the mission-title must be considered as making a voluntary renunciation of the privilege granted by Common law rather than as not participating in the same.

Ordinarily civic duties do not take precedence of the Religious life. It is unbecoming, to say the least, that, in times of peace,

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[16] Eadem Const., "Ex quo."

[17] O. c. p. 51 in note; Wernz, o. c., vol. III, p. 296 and note (212); Bouix, o. c. p. 459. Responsio S. C. RR. et EE. Jan. 28, 1837.

[18] Const. "Quum Rom. Pontifices," June 28, 1853; Instr. S. C. de prop. Fide, April 27, 1871; Bastien, o. c., p. 53 in note 2. The oath is taken from the "Relatio Annualis Vicesima Septima" of the Josephinum Pontifical College, Columbus, Ohio.

[19] Instr. S. C. de Prop. Fide, April 27, 1871; C. of Balt. III, p. 204.

[20] Eadem Instr. n. 10.

aspirants for the Priesthood or for Religion should be compelled to render military service to the State and thereby to postpone or to desert a higher state. But when governments no longer regard the rights of the Church (Privilegium exemptionis, cfr. Sebastianelli, de Pers., n. 17), prudence suggests that these rights be not asserted as long as no direct violation of Divine rights is involved. This policy seems to have inspired the new legislation of the Church forbidding persons, subject to military service, to make the perpetual profession in Religious Orders and Institutes, or to receive Holy Orders before this service has been rendered.[21] Even when the military demands cover but a few months, the Religious profession must be delayed.[22] There is one exception to the law, viz., Religious candidates for Orders, whose course of studies is within one year of completion, may make the perpetual profession, provided they take an oath of serving on the foreign Missions until such time that their liability to military service has elapsed.[23]

In this category of personal obligations which prevent one from embracing the Religious life, commutative justice also must be mentioned. Thus the Canons of the Church prohibit the reception of insolvent debtors and of persons involved in litigations.[24] Cases, however, may occur which exclude absolutely any possibility of satisfying justice. Such would certainly receive the benign consideration of the Church, for She looks more to the moral than to the social conditions and necessities of man, especially when these do not include personal turpitude.

Yet the social attitude cannot be altogether ignored, not even by Religious Institutes. Nor does the Church ignore it. This is evinced especially in the case of illegitimacy.[25] Generally

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[21] "Inter Reliquas," Jan. 1, 1911.

[22] "Responsio" S. C. de Rel. Feb. 1, 1912.

[23] Ibid., n. 6.

[24] Sixtus V, Const. "Cum de omnibus," Nov. 26, 1586; Clement VIII, Const. "In suprema," April 2, 1602; Wernz, l. c., n. 628, 629.

[25] C. 1, tit. 18, X. de fil. presbyt.; Const. "Cum de omnibus," Nov. 26, 1587.

illegitimacy, and even widowhood by the particular decrees of approval are made impediments to Religious Congregations.[26] Since no general law exists to this effect, Religious Institutes are governed solely by their constitutions, except Institutes of priests. Illegitimacy is an impediment to Sacred Orders, and therefore it necessarily effects Congregations of clerics.

Quite different is the attitude of the Church towards personal and public crime. The Sacred Canons explicitly forbid the reception of applicants publicly stained.[27] The Papal Constitutions refer directly to Religious Orders. Yet there can be no doubt that the honor of other Institutes demands this same prohibition as will appear from the following regulations.

Pius X laid down the rigid law for all Religious Institutes of men that they may not receive any applicant who has been guilty of any offense which entailed dismissal from an Institute of learning; "Nullimode, absque speciali venia S. Apostolicae, et sub poena nullitatis professionis, excipiantur . . . postulantes, qui e collegiis etiam laicis ob inhonestos mores vel ob alia crimina expulsi fuerint." [28] Under a separate decree the same law has been extended to Congregations of women.[29] Evidently the term "Collegium" cannot be applied to elementary schools, for in ecclesiastical language "Collegium" is generally predicated of a society of persons acting as a moral unit and connected with some sort of common life.[30] It would appear, then, that in the present law "Collegium" refers properly to institutes of higher education. The law, however, speaks in general terms, and therefore colleges, and universities, whether conducted by clerics or laics, by Catholics or non-Catholics, are comprised in the late decrees.

A further and more stringent precept obtains in case of dismis-

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[26] Wernz, l. c.; Battandier, o. c., n. 55; Bastien, o. c., n. 80; Lanslot, n. 75.

[27] Const. "Cum de omnibus," Nov. 26, 1587; "Ad Romanum," Oct. 21, 1588.

[28] Decr. S. C. de Religiosis, "Ecclesia Christi," Sept. 7, 1909.

[29] Decr. "Sanctissimus," Jan. 4, 1910.

[30] Vermeersch, Periodica, vol. V, p. (21).

sal from vocational schools. The same decrees just quoted forbid the reception of postulants who have been expelled "quacumque ratione" from Ecclesiastical and Religious seminaries, colleges, and domestic school for girls. Ecclesiastical and Religious seminaries and colleges are determined not by the status of the teaching faculty, but by the aim of the students attending these schools. If the students of an Institute are preparing immediately for the Ecclesiastical or Religious state, the present law would certainly find its full application. If, however, the student body were preparing for various avocations in life, such Institutes Vermeersch thinks could hardly be considered ecclesiastical or Religious colleges.[31] But this impediment refers not only to moral guilt, but also to mental inability of any cause justifying expulsion.[32]

The same ecclesiastical impediment accompanies compulsory dismissal from Religious Congregations or Orders. Henceforth no Novice or Religious of either sex who has been expelled from a Religious Institute or has obtained a dispensation from the vows, can enter another Institute or another province of the same Institute without the special permission of the Holy See.[33]

It is necessary to make a few observations on these new regulations of the S. C. de Religiosis, since they entail such severe consequences. There is question of dismissal or expulsion in the various impediments. Now a virtual (aequivalenter) dismissal or expulsion, *i. e.,* advice to leave on one's own accord in order to avoid formal expulsion, is tantamount to an explicit dismissal, and, therefore, such a postulant may not be licitly received into any Religous Institute. Since, however, such procedure would not be a direct violation of the law, but as Canonists say, an evasion "in fraudem legis," the Religious profession would be valid, but not licit. If, then, one were advised to discontinue

[31] Vermeersch, Periodica, Vol. V, p. 54.
[32] Ibid. and "Responsio S. C. de Rel.," April 5, 1910.
[33] Decr. "Ecclesia Christi" et "Sanctissimus" cit.

his or her studies or leave a Religious Institute for other reasons than to avoid dismissal, such a one would not be effected by the law; for voluntary egress from a school or Religious Institute is no impediment to joining a Religious Society. Nevertheless a sworn testimony is required to show that such a one has not been "formaliter vel aequivalenter" dismissed.[34] Nor are postulants included in the decree, but Novices in the strict sense and Religious who have made the Religious profession. Again there is reference only to mental or moral causes which effect the dismissal. Consequently, merely physical causes such as ill health, etc., form no legitimate basis for incurring the penalty of the law. Finally the oft-quoted principle of Canonists that Rome's legislation for Religious must be restricted exclusively to Institutes directly under her authority unless the contrary is explicitly stated, finds application here. Hence we may safely say, then, that the above precepts of Pius X do not extend to diocesan Institutes. This does not, however, exclude them from being at least directive norms which Bishops would do well to impose on Societies under their jurisdiction.[35]

A final impediment to entering a Religious Institute of the Western Church is the Oriental Rite. No person of the Oriental Rite can be admitted into a Community of the Occidental Rite without the special permisson of the Holy See[36] and the written testimony of the postulant's proper Bishop.[37] In case of lay Brothers and Sisters, however, recourse to the Holy See is required only for a "formal" transfer to the Latin Rite.[38] If, therefore, a candidate does not formally surrender the Oriental Rite, he or she would be obliged to follow the same Rite in case dismissal or voluntary egress from the Institute were ever effected.

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[34] "Declaratio" S. C. de Rel. April 5, 1910.

[35] Ibidem; Vermeersch, Periodica, vol. V, pp. 54, 99, 124.

[36] Decr. S. C. de Prop. Fide, June 1, 1885.

[37] Lit. Apost. "Orientalium dignitas Ecclesiarum," Nov. 30, 1894; Litterae Praefecti S. C. de Prop. Fide, June 15, 1912.

[38] Vermeersch, Periodica, Vol. VI, pp. 245, 246.

This procedure, however, could not be followed by candidates for Sacred Orders. No Order or Institute, irrespective of its canonical status, may ordain a subject of the Oriental Rite without the special permission of the Holy See.

The question now arises in regard to all these impediments,—how an Institute may know of their existence or non-existence. For this purpose the Holy See has imposed the obligation on all Religious Congregations of demanding testimonial letters from the postulant's Bishop or Bishops. The decree "Romani Pontifices" says on this matter:[39] "In quocumque Ordine, Congregatione, Societate, Instituto, Monasterio, domo, sive in iis emittantur vota Sollemnia, sive simplicia . . . nemo ad habitum admittatur absque testimonialibus litteris tum Ordinarii originis tum etiam Ordinarii loci, in quo postulans post expletum decimum quintum annum aetatis suae ultra annum moratus fuerit, Ordinarii in praefatis litteris testimonialibus exquisiverint, etiam per secretas informationes de postulantis qualitatibus, referre debeant de ejus natalibus, aetate, moribus, vita, fama, conditione, educatione, scientia, etc. . . . Et sciant Ordinarii eorum conscientiam super veritate expositorum oneratam remanere, nec ipsis unquam liberum esse huiusmodi testimoniales litteras denegare." Here we notice that the testimonials must contain the necessary information pertaining to all the impediments touched upon in this chapter. Nor can it be said that this law has passed into desuetude, for the "Elenchus quaestionum," issued in 1906 and outlining a certain number of questions which must be reported upon every third year, states in the tenth question "de admissis": "Institutis Religionum, num litterae testimoniales per Decretum Romani Pontifices praescriptae in singulis casibus expeditae fuerint." This said decree, "Romani Pontifices," does not seem to refer to diocesan Institutes, nor to approved Institutes of women.[40] Nor does the Const. "Conditae a Christo"

[39] Decr. S. C. de Regularibus, Jan. 25, 1848.

[40] Sebastianelli, o. c., de Pers., n. 334.

explicitly speak of these except in reference to testimonial letters for Institutes of Priests.[41] In regard to diocesan Institutes, however, the Const. "Conditae a Christo" says: "De puellis habitum religiosum petenibus, item de iis quae probatione expleta, emissurae sint vota, Episcopus singulatim certior fit; eiusdem erit illas et de more explorare et si nihil obstat admittere." [42] Practically this obligation includes the information required by the testimonials; for how else could a Bishop judge whether anything objectionable as to the candidate exists? As to approved Institutes, the "Elenchus" manifests the will of the Holy See, and makes no distinction between Institutes of women and men. Therefore it would seem to follow that these, too, must demand testimonials before receiving postulants. No doubt the Roman approval of the individual Communities makes ample provisions for the same. At any rate testimonials are demanded of each postulant who has left a vocational school, college, seminary, or Religious Institute according to the decrees quoted above.[43]

Ordinarily testimonials of Baptism and Confirmation are also required of postulants. The "Normae" of 1901 make special mention of them.[44] But there does not seem to be a special law to this effect, yet the approved constitutions generally demand them.[45]

Many, no doubt, find these various prescriptions of the Holy See irksome and inconvenient, not to say severe at times. But all must admit that they redound to the greater security and glory of that state which has produced so many Saints in the Church throughout the different centuries. The history of Religious Orders and Congregations but too plainly shows that as an Insti-

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[41] C. II, n. 6.

[42] C. I, n. 7.

[43] Decrs. "Ecclesia Christi" and "Sanctissimus."

[44] Normae, Art. 57.

[45] Wernz, l. c., in note (204); Bastien, o. c., p. 45; Battandier, o. c., p. 61; Lanslot, o. c., p. 44.

tute neglected the regulations of the Holy See, it deteriorated proportionately and not seldom reached that irremediable stage where dissolution was inevitable; while strict obedience to the precepts of the Holy See has ever seemed to merit the special blessing of Providence, by bringing to its doors numerous candidates, a more vigorous spiritual life, and greater fruit of sanctity. And little should we wonder that so it should be, in order that an Institute may merit benediction from God and inspiration from man. An Institute whose corner stone is obedience, must first give an example to those whom it calls to join its ranks, of readiness to obey in all things, that in it may be verified the words of Him who said, "He that followeth Me walketh not in darkness."

CHAPTER V.

The Bond of Religious Life.

The Religious State may be defined "as the mode of life, irrevocable in its nature, of men (hominum) who profess to aim at the perfection of Christian Charity in the bosom of the Church by the three perpetual vows of poverty, chastity and obedience." [1] In this precise form the Religious State is the invention of the Church. Christ, the Author of perfection, proposed the counsels but left the mode of their observance to the individual and the Church. If they are to form the foundation of a special state of life, some device must be resorted to in order to insure stability in their observance. Stability or permanency is the first requisite of any state. The very word "state" suggests it. Sebastianelli says: "Status a 'stare,' est quidem vivendi modus cum permanentia ex causa non facile mutabili sed perenni" (o. c., vol. II, p. 346). How can this be procured?

Christ has left the way of Christian perfection optional, and consequently no authority can make it obligatory. A firm resolution or a promise may ensure some sort of stability, but hardly an irrevocable state. There remains, however, the possibility of invoking God in confirmation of a promise or directing the promise immediately to Him. Thus a fourfold method of observing the counsels or striving after perfection is presented to man: the state of perfection may be inaugurated first by a mere resolution sustained only by the bond of charity; secondly, by a promise to a legitimate superior, which would add at least the obligation of fidelity; thirdly, by an oath or lastly by a vow,

[1] Vermeersch, Catholic Encyclopedia, "Religious."

either of which would strengthen the promise by the bond of Religion. Each of these has been chosen as the bond of Religious life in Societies approved by the Church.

In Religious Institutes which are based on the mere bond of charity, no more can be required of postulants than the firm promise of perseverance. Billuart defines a "propositum" as an "actus voluntatis deliberatae, quo quis vult quidem facere id de quo deliberat, sed numquam obligat se ad illud faciendum." [2] If at any time one should for sufficient reason desist from continuing in this state of mind, it could not "per se" be imputed to him as sin, for "omissio propositi per se non est peccatum." [3] The "per se" is essential when applying this principle to Religious Institutes as will be seen below. Entering such an Institute signifies something more than an intention to do something, it involves a tacit bilateral contract of not inflicting any injury. Therefore, such Institutes have much in common with that class which binds its members by a promise of perseverance. But the comparative instability of the Religious life in such Institutes prevents it from being a true state in the strict meaning of that term.

Those Institutes which exact a formal promise of perseverance, oblige themselves to provide for all the spiritual and temporal necessities of their members as also not to dismiss members without a just and grave reason. The postulant in turn pledges perseverance and a mode of life in harmony with the principles of the Institute, so as not to give just cause for dismissal.[4] In virtue of this mutual and onerous contract a strict obligation in justice arises: "Promissionem perseverantiae acceptando, ipsa vicissim sese obligavit ad gerendam de membro suo convenientem curam;

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[2] "Summa Theol.," vol. IV, dist. IV, a. 1. de Rel.

[3] Noldin, "Summa Theol.," vol. II, n. 209.

[4] Bouix, de Regularibus, vol. II, p. II, p 465 sq.

ita ut verus existat congregationem inter et ipsius membra onerosus contractus." [5]

If this promise is confirmed by an oath, another obligation of perseverance is added to the contract, viz., the obligation of religion. By an oath, God is invoked as a witness to the truth of the present promise and as a bail and surety of its execution; not indeed in the sense that He assumes the obligation of fulfilling the contract, but that He considers its non-fulfillment as a direct offense against Himself. By an oath, furthermore, God is implicitly asked to manifest, either in this life or in the next, the truth of what is said. The violation, then, of this promise, to which God has added His authority, is not only an infringement of justice, but also of reverence due to God. The oath, therefore, must give greater stability to the Religious life.[6]

But neither the onerous contract nor the oath can give irrevocability to the Religious profession. The promise is entirely subject to the contracting parties, for "nihil tam naturale, quam eodem genere quodque dissolvere, quo colligatum." [7] And the oath necessarily follows the nature of the contract: "Accessorium naturam sequi congruit principalis." [8] For this reason the true foundation of the Religious state cannot be had in the promise or the oath, but must be sought in the vow.

The Scholastics define the vow as a "promissio Deo facta de bono meliori";[9] but for our purpose the "de bono meliori" is circumscribed by the evangelical counsels of perpetual poverty, chastity and obedience, as the definition of the Religious state indicates.[10] While Christ gave many counsels, yet the observ-

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[5] Bouix, l. c.; Suarez, o. c. Tom. 2, Tract. 6, lib. 6, c. 15; St. Alphonsus, o. c., lib. III, Tract. 2, c. 4.

[6] Noldin, o. c., vol. II, p. 248 sq.

[7] Reg. juris civilis, 35.

[8] Reg. Jur., 42 in 6°.

[9] St. Thomas, "Summa," II, II, qu. 88. a. 1-12.

[10] Suarez, De Religione, Tract. VII, lib. ii, C. 2; Sebastianelli, De Regularibus, n. 319.

ance of all of them is not necessary for the state of perfection. The great obstacles to perfection are the care of things temporal, the pleasures of the flesh and the free exercise of personal liberty. The free and permanent renunciation of these is necessary, but also sufficient for acquiring Christian perfection.[11] The promises made in a Religious Institute insure permanency, for God demands the fulfillment of vows: "Si quid Deo vovisti, ne moreris reddere, displicet enim ei infidelis et stulta promissio." [12] And St. Thomas says: "Votum quandam obligationem importat . . . et voto quis Deo obligatur ex justitia eo modo, quo iustitia ad Deum esse potest." [13] Therefore the double obligation of justice and fidelity towards God binds one to adhere to such a promise of perseverance in Religion.

We might ask why a greater stability is achieved through the vow than the oath. Authors dispute whether "per se" the vow or oath imposes the greater obligation. Both are acts of Religion. The vow creates an obligation of fidelity, and the oath, that of reverence towards God. The one promises something to God, the other invokes His authority to confirm a promise to man. But when the vow and oath appertain to the Religious life, there is no doubt that the vow induces the greater stability, for it is the promise itself while the oath is only accessory. And then the Church has always laid greater stress upon the vow and a dispensation from it requires graver reasons.[14]

As a promise made to God, the vow is a purely internal act. But the natural law dictates that if it is to be adjudicated in the external forum, it must be made public; and if it is to become the foundation of a state in life, it is very becoming that some solemnity be attached to it.[15] Thus vows have ever been divided

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[11] Suarez, l. c.; Sebastianelli, l. c. Vermeersch, De Rel. Inst. et Personis, Tom. I, c. 1, a. 11.

[12] Eccl. C. 6.

[13] "Summa," II. II., qu. 88, a. 1.

[14] Suarez, de Jur. lib. II, 6, 12; Ojetti, o. c., n. 2547; Noldin, l. c.

[15] St. Thomas, l. c., qu. 88, a. 7.

into private and public. But in regard to Religious life, vows have received the appellation of Solemn and Simple according to the special specification of the Church. Boniface VIII says: "Illud solum votum debere dici sollemne . . . quod solemnizatum fuerit per susceptionem SS. Ordinis aut per professionem expressam vel tacitam factam alicui de religionibus per Sedem Apostolicam approbatam . . . Nos attendentes, quod voti sollemnitas ex sola institutione ecclesiae est inventa." [16] With the introduction of Religious Congregations the Simple vows became the foundation and bond of these Institutes.[17] The Society of Jesus prescribed both Solemn and Simple vows.[18] Pius IX prescribed that the Religious Orders of men make the Simple vows for three years after the Novitiate and then the Solemn.[19] Leo XIII extended the same to Orders of women.[20]

The obligation, however, of the Solemn and Simple vow is the same. Celestine III maintained that "votum simplex non minus obligat apud Deum quam sollemne." [21] And Fr. Vermeersch says, "vota sollemnia et privata inter se differunt non tam intrinseca quam accidentali et extrinseca accessione auctoritatis." [22] But the Church has attached an additional power to the Solemn vow in the form of an invalidating impediment to the acts opposed to the Solemn vow.[23] Since this incapacitating effect of the Solemn vow emanates simply from the Church's authority, it follows that She can also affix it to the Simple vow. This has been done by Her for instance in the case of Simple vows made by the Scholastics in the Society of Jesus.[24]

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[16] C. Unic. de voto in 6°.

[17] Const. "Inter cetera," Jan. 20, 1521; "Quamvis justa," June 28, 1748; "Conditae a Christo," Dec. 8, 1900.

[18] Const. "Ascendente Domino," 1584.

[19] Decr. S. C. EE. et RR., March 19, 1857.

[20] Decr. S. C. EE. et RR., May 3, 1902.

[21] C. 6, X. qui clerici.

[22] De rel. Instit. et Pers., Tom. I, c. I.

[23] Cfr. "Corpus Juris," l. c.

[24] Const. "Ascendente Domino," cit.

In order that the Simple vows may form a permanent bond in Religious Congregations, it is necessary that they be perpetual. Many Institutes exact only temporary vows. Consequently, in these the true nature of the Religious state is sacrificed. This, however, in no wise affects the Religious life according to the evangelical counsels. Wherefore the Holy See has approved such Institutes and given them a place in her Common law.

A still greater departure from the Religious state is made by those Institutes which have not the "three" substantial vows of Religion, but make only one or the other, be it temporary or perpetual. Leo XIII acknowledged these Institutes in the general "Charter" for Religious Congregations, but in the following year recommends the three substantial vows; this is evidenced by the "Normae" which are destined to constitute the guiding principles for all Congregations. In Art. 102 we read, "Tria tantum substantialia (vota) excluso quarto, sint admittenda." The exception to the fourth vow is evidently to preclude the multiplication of obligations. Many Institutes, as for example the Jesuits, Friars Minor, Clerks Regular, Passionists, Nuns of St. Clare and others, make a fourth vow. The Council of Trent approved of this custom.[25] But for Congregations the Holy See has evidently found a fourth vow inexpedient.

The vows of Religion entail severe obligations which generally bind for life. Wherefore the Church takes the greatest care that sufficient time and opportunity are afforded the candidates to consider well the responsibilities. The Council of Trent prescribes at least one year of probation for Regulars,[26] and the same law is generally extended to Congregations approved by Rome. The "Normae" (Art. 72) permit the time of probation to be protracted to at least two years if deemed expedient. After this period of deliberation there can remain little room for ignorance or error in the mind of the Novice. Nevertheless should a sub-

[25] Sess. 25, c. I.
[26] Sess. 25.

stantial error in regard to the object of the vow exist, it would vitiate the same: "Vota quae . . . in aliqua religione approbata emittuntur, irrita non esse, nisi intercesserit error substantialis." [27] So in like manner would the vows ordinarily be null and void if one were forced to make them. Billuart says, in speaking of the vow: "Votum sive simplex sive sollemne emissum ex metu gravi injuste ab homine incussu ad extorquendum illud, iure positivo est nullum." [28]

No general principles are adducible for interpreting the scope of the vows of the different Institutes. The rules, constitutions and customs of every Society are the natural guides, except of course in matters regarding the vow of chastity. Here no divergence of opinion or practice is possible. Sometimes the Holy See, or the Institute with the permission of the Holy See, insists upon a stricter observance of the vows. It is generally held that such innovations, if they are really contrary to the established practice, do not ordinarily bind the members who have been living under the old rules and customs, but affect only those who make their vows after these changes.[29]

While the rules and constitution interpret the scope of the vows, yet they themselves are not included in the obligations assumed by the vows, unless this should be clearly stated. Bouix says: "Regula non obligat vi voti oboedientiae, nisi id in ea clare exprimitur . . . et ideo propria obligatio regulae, ut sic, non ex voto oboedientiae, sed ex propria ratione legis et principiis ejus, est colligenda." [30] It was shown above that the rules ordinarily do not bind under sin. Must we then conclude, since neither the vow of obedience nor any precept make the rules of an Institute obligatory in conscience, they are only a counsel and, therefore, their observance or violation op-

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[27] Ojetti, o. c., n. 4135; De Lugo, de Jure et Justitia, Disp. XXII, n. 88.

[28] l. c., Dissert. IV, art. I, c. 18; cfr. Sebastianelli, vol. I, p. 385, for exceptions to this general law.

[29] Vermeersch, Periodica, vol. VII, p. (18).

[30] De Regularibus, vol. II, p. 546.

tional? Suarez thinks not: "Regula religiosa non est merum consilium; quia praeter illam sunt multa alia quae ex consilio possunt religiosa . . . et nihilominus religiosus omittens alia consilia supra suam regulam, non censetur deesse suo muneri et statui: si autem suam regulam praetermittat, deficere censetur a sua obligatione. Ergo talis regula respectu illius plus est quam consilium. Ergo necessitatem aliquam imponit; potest, ergo, infractionem punire; et injunctam poenam explere tenetur violator etiam in conscientia. Unde etiam tunc rationem legis aliquatenus retinet regula." [31]

Summing up, then, we see that the vows of perpetual poverty, chastity and obedience constitute the natural bond of the Religious state. Sometimes this bond is replaced by an oath or a mere promise which destroys the true notion of a permanent state, but which the Church has accepted as sufficient for a quasi-Religious life in well-organized Communities. In every case an obligation of justice is contracted which in two instances is increased by an obligation of religion. The extent of the obligation is measured by the rules of the Institute, which in turn have the sanction of at least penal laws.

[31] Suarez, De Relig., Tom. 4, Tract. 8, lib. I, c. 2; Bouix, l. c., p. 545 sq.

CHAPTER VI.

Egress From a Religious Institute.

The bond of Religion differs essentially from that of Sacred Orders and Matrimony. In the present economy of Divine Providence, the bond of Sacred Orders and Matrimony is indissoluble, while that of Religion is "per se" perpetual, but for just and proportionately grave reasons may be dissolved and its obligation dispensed with or commuted. The present chapter, therefore, purposes to investigate the general obligation of perseverance, and the canonical regulations regarding dispensation and dismissal.

Religious, properly and improperly so-called, are obliged to persevere in virtue of the mutual promise made in the Religious profession. This supposes some sort of a promise. If a Congregation were to allow egress at will, there could be no question of a strict obligation to persevere, unless ecclesiastical law in general or some external right of justice would be violated thereby. By the Religious profession the candidate surrenders himself to the Society which in turn accepts his promise and obliges itself to provide for all the necessaries of soul and body: "Intervenit proinde contractus utrinque onerosus, religiosum erga congregationem obligans; ita ut, abstrahendo etiam a votis, laedatur ius congregationi acquisitum, si religiosus, ipsa invita, eam derelinquat. Quia hoc modo ligant ex natura sua contractus onerosi quilibet." [1] This doctrine applies equally, "quoad congregationes status religiosi essentiam non habentes, sed in quibus intervenit votum, juramentumve aut promissio perseverantiae." [2] We find

[1] Bouix, De Reg., vol. II, p. 162.
[2] Bouix, l. c., p. 464.

here a true application of the rule laid down in the Sacred Canons: "Mutare quis consilium non potest in alterius praejudicium." [3]

This, however, supposes that the promise or vows are valid and no higher duty intervenes. But what if the invalidity of the profession be invoked? According to the Council of Trent an ecclesiastical trial may be instituted contesting the validity of the Religious profession within five years from the day of the profession. The nature and procedure of this judicial trial were clearly defined by Benedict XIV.[4] All this, however, refers only to Regulars. In diocesan Institutes the Bishop would investigate and decide the case "sola facti veritate inspecta." [5] But in approved Congregations, if the nullity of the profession were sought, the solution would remain with the Holy See, unless the constitutions of the said Congregation made special provision for such cases. Bastien says in this regard: "En tous cas, si un procès doit être entamé, faudrait recourir au Saint-Siège, s'il s'agit des congregations approuvées par lui." [6] Wernz thinks, however, that if the nullity of the profession were desired by either the Religious or Institute, it would be more expedient to resort to dismissal and dispensation of vows: "Utplurimum huiusmodi causae, quibus persona religiosa vel institutum religiosum praetendunt nullitatem simplicis professionis et postulant solutionem vinculi contracti cum instituto religioso et liberationem a votis, potius expediuntur per viam dismissionis et dispensationis saltem ad cautelam datae servatis legibus proprii instituti et decretis pontificiis." [7] Such a dismissal according to the present discipline renders entrance into another institute very difficult, if not impossible. For this reason we prefer the solution of Bastien and deem it more ex-

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[3] Regula Jur. 42 in 6.
[4] Sess. XXV, c. 19, De Regularibus; Const. "Si datam," Mar. 4, 1748.
[5] Decr. S. C. EE. et RR., June 12, 1858; Bargilliat, o. c., n. 1148.
[6] O. c., p. 98.
[7] O. c., vol. III, n. 673.

pedient to refer the case to the Holy See, unless the constitutions offer an alternative.

But there are instances in which even the valid profession cannot prevent one from leaving a Religious Congregation. In a previous chapter it was said that the duty of providing for one's nearest of kin takes precedence of the obligation in Religion. The same holds in cases of extreme necessity when egress from the Religious Congregation is the only means of providing adequately for the preservation of one's health or other similar duties. In such instances the Community is generally able and willing to come to the assistance of its members, even with extraordinary means; but were it not, there would be no violation of any rights in leaving an Institute.[8]

Furthermore the Sacred Canons formerly permitted Religious in the strict sense to enter a stricter Order at will.[9] This, however, is contrary to present practice: "Nunc in praxi," says Ojetti, "semper requiritur venia a Sancta Sede." [10] As to Religious Congregations, Bastien says: "il faut donc ici s'en référer aux constitutions de l'institut et voir ce qu'elles exigent. D'après la pratique en vigueur à la S. congregation des Év. et Rég., telle que la montrent les 'Normae' a 61, le recours au Saint-Siège est de rigueur." [11]

Under ordinary circumstances, then, the general principles hold that egress from a Religious Congregation without the consent of the Institute or the dispensation of the Holy See is illicit. This is the common teaching of all Theologians and Canonists. Bouix says and demonstrates: "Quoties intervenit promissio perseverantiae a Congregatione acceptata, nisi congregatio ipsa consentiat, nemo praeter summum Pontificem potest ullum congregationis membrum liberum facere, sive a dicta promissione, sive a jura-

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[8] Bastien, o. c., n. 86; St. Thomas, II, II, qu. 189; St. Alphonsus, o. c., n. 67-70.

[9] C. 18, tit. 31, X. lib. III.

[10] O. c., n. 3989; De Angelis in Tit. 31, lib. III of Decretals.

[11] O. c. 196.

mento aut votis eam firmantibus." [12] This refers to diocesan as well as approved Institutes.[13] When the Const. "Conditae a Christo" says, "Episcopo alumnas sodalitatum dioecesanarum professas dimittendi potestas," it immediately adds, "cavendum tamen ne istiusmodi remissione ius alienum laedatur; laedatur autem, si insciis moderatoribus id fiat iusteque dissentientibus." [14] The powers of a Bishop, and, "a fortiori," of an inferior cleric, over vows, oaths and promises extends only "citra praejudicium tertii." The Sovereign Pontiff, however, is the supreme administrator over all the possessions and rights of Religious Congregations, and, therefore, can dispense a Religious from his obligation toward the Community, notwithstanding the dissent of its superiors.

This, then, gives the key-note to the dispensing powers of the Bishops, priests and the various superiors in the respective Congregations. The Bishop, "ceteris paribus," can dispense from all vows (except that of perpetual chastity) in diocesan Institutes.[15] When diocesan Institutes are spread throughout several dioceses, the Bishop of the motherhouse cannot reserve this right to himself in prejudice to the Bishops in whose diocese a branch of the Community resides and labors: "Dispensatio votorum pro monialibus domorum filialium in dioecesi existentium diversa ab illa, in qua degit domus princeps, competit Ordinario domus filialis." [16] But the vows of approved Congregations are reserved to the Holy See.[17] One general exception, however, must be mentioned, viz., the vows of Religious who have performed military service: "Quod si ipsi iuvenes a votorum vinculo se relaxari desiderent, aut sponte petant, facultas fit superioribus prae-

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[12] O. c., vol. II, p. 466; St. Alph., o. c., lib. 3, Tract. 2, c. 4; Suarez, o. c., Tom. 2, Tract. 6, lib. 6, c. 15.

[13] Bouix, l. c., p. 463.

[14] Const. "Conditae a Christo," c. 1. a. 8.

[15] Ibid.

[16] Responsio S. C. EE. et RR. April 21, 1903 (Anual. Eccl. 1903, p. 254).

[17] Const. "Conditae a Christo," C. II. a. 2.

dictis (i. e., Superioribus generalibus) tamquam Apostolicae Sedis delegatis, vota solvendi, si agatur de Institutis clericalibus: si vero res sit de Institutis laicorum, vota soluta censeantur per litteras Superiorum quibus licentia eis fit ad saeculum redeundi." [18]

Outside of this instance the Religious superior can ordinarily neither dispense from the vows nor grant permission to the Religious to re-enter the world, for the obligation of the vow can be fulfilled only in the Congregation. It was said "ordinarily," for no cognizance is here taken of the powers conferred by particular constitutions, nor of the right to dismiss a Religious for just reasons. This latter exception will be treated presently. Of course in Institutes whose members make no profession of vows, the question is quite different. Unless their constitutions reserve the right of permitting a Religious to leave the Society to the Holy See, the superior could confer the necessary permission. In diocesan Institutes the regulations of the Ordinary must be consulted.

But with the dispensation from vows or with the permission of superiors to leave the Institute neither unconditional liberty nor all previous rights are restored to the Religious. We have seen that the dispensation from vows constitutes an impediment to entering another Congregation or Order, unless a special permission of the Holy See is obtained. In addition to this the Council of Baltimore closes the door of the priesthood to teaching Brothers of the United States: "Neminem qui in hac Congregatione (Brothers of Christian Schools) prima vota emiserit, et deinde quacumque de causa congregationi valedixerit, in provinciarum nostrarum seminaria tamquam sacrorum ordinum candidatum sine dispensatione S. Congregationis admitti posse. Idem statuunt (Patres huius Concilii) de Fratribus Xaverianis, Franciscalibus aliisque quibus lege sua sacerdotium ambire vetitum est." [19] Furthermore Leo XIII forbids clerics who have re-

[18] Decr. S. C. de Rel., Jan. 1, 1911.
[19] III C. of Baltimore, n. 99.

ceived a dispensation from their vows to leave the Congregation before they have found a Bishop to receive them, and a canonical title to insure the means of support: "Ex claustro non exeant, donec Episcopum benevolum receptorem invenerint et de ecclesiastico patrimonio sibi providerint, secus suspensi maneant ab exercito susceptorum ordinum. Quod porrigitur quoque ad alumnos votorum simplicium temporalium, qui quovis professionis vinculo iam fuerint soluti, ob elapsum tempus, quo vota ab ipsis fuerunt nuncupata." [20] This regulation seems to affect directly only clerics of approved Congregations of Simple vows: "Qui in Sacris Ordinibus constituti et votis simplicibus obstricti." The Holy See, however, is wont to extend the Decr. "Auctis admodum" to other Communities of clerics. When, therefore, approved or diocesan Societies have received from the Holy See a privileged title of ordination, their obligations or laws in regard to dismissing clerics must be sought in the special indult rather than in the Common law.

To discourage clerics still more from deserting the Religious life, Pius X has barred their way to any secular benefice, office of dignity or responsibility within the diocese; viz., from any office or benefice, especially in Basilica and Cathedral Churches, from any teaching or administrative office in ecclesiastical seminaries, and also in universities which enjoy the Apostolic faculty of conferring degrees, from any office in the Episcopal Curia, and finally from the office of visitator or moderator of any Religious Society. And that their example may not influence or scandalize their quondam co-religious, they may not fix their domicile in places where the deserted Community conducts Convents or houses.[21] These prohibitions extend primarily to Religious Orders and Congregations of perpetual vows, but now also to all other Institutes, "Si Religiosi votis temporaneis, vel iuramento perseverantiae vel supradictis promissionibus per sex

[20] Decr. "Auctis admodum," Nov. 4, 1892.
[21] Decr. S. C. de Rel., "Cum minoris," June 15, 1909.

integros annos ligati fuerunt."[22] Diocesan Institutes are not included in this declaration of the Sacred Congregation. They are absolutely and exclusively under the Bishop's jurisdiction except when the contrary is expressly stated and therefore he could promote ex-members to the respective positions. The fact that the Decr. "Cum minoris" refers only to voluntary egress, does not place a premium on expulsion and dismissal as would seem at first sight. Severer laws affect such.[23]

Like the individual, every society possesses the right of self-defense and self-preservation. Therefore it may repel and punish an unjust aggressor. If then a Religious commits crimes which are grievously detrimental to the moral or material welfare of the Institute, the Congregation must have the right not only to punish the criminal, but also to expel him, if no other means has served to effect amendment. In the case of diocesan Institutes, this right, by positive legislation, is vested in the Ordinary: "Episcopo alumnas sodalitatum dioecesanarum professas dimittendi potestas est."[24] No explicit reference is made to Institutes of men nor to Societies which have no vows. But evidently as long as an Institute is diocesan, the Bishop is the natural superior, and therefore also the competent judge to inflict necessary punishment on delinquents. With the approval of a Congregation, however, this right devolves upon the Religious superior: "Praesidum est . . . tirones ac professos dimittere, iis tamen servatis quaecumque ex instituti legibus pontificiisque decretis servari oportet."[25] The sentence of dismissal in Institutes of women becomes effective only on the confirmation of the Holy See.[26] Furthermore the Holy See does not wish that the

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[22] Declaratio et Extensio decreti "Cum Minoris," April 5, 1910.

[23] Vermeersch, Periodica, vol. V, pp. 41 sq. and 126; Capello, o. c., p. 212, 575.

[24] Const. "Conditae a Christo," c. 1. a. 8.

[25] Ibidem, c. 2, a. 1.

[26] Decr. S. C. EE, et RR. Aug. 24, 1887; May 22, 1895; Bastien, o. c., p. 124; Wernz, o. c., vol. III, p. 379.

superior be the sole judge in cases of dismissal. Wherefore the "Normae" of 1901 (Art. 201) prescribe that the board of consultors shall have a voice in deciding matters of such importance. While these "Normae" are not "per se" preceptive, yet they express the mind of the Holy See and constitute at least a directive norm for all Religious Institutes which have not an explicit norm laid down in their constitutions. The constitutions of each Society, therefore, form the law for each Community.

But neither the Bishops nor Religious superiors may act arbitrarily in actions of dismissal. They are bound in justice and by precept not to expel a member except for a just and proportionately grave cause.[27] In Institutes which have not the true Religious state, *i. e.*, the three perpetual vows, the reason justifying dismissal need not be so grave, but must always be a just cause: "Si interveniat votum, vel iuramentum, vel promissio perseverandi in congregatione et congregatio acceptet, ejectio sine justa causa fieri non potest." [28] Ordinarily the constitutions designate the causes which entail dismissal. Extraordinary cases must be left to the prudent judgment of the superior.

For Congregations of perpetual vows and those of clerics with temporary vows, a reform in the judicial procedure of expulsion and dismissal has been made.[29] We say "expulsion" and "dismissal," for the terms are often used promiscuously,[30] but in the present decree, "Cum singulae," the former signifies ejection from a strict Order, while the latter is restricted to Congregations of Simple vows.[31]

According to the tenor of the new decree one may be dismissed (or expelled, respectively) "ipso facto" by committing certain

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[27] Const. "Emanavit," Jan. 21, 1758; Decr. S. C. EE, et RR. Nov. 4, 1892; et Jan. 10, 1896; et July 4, 1898; Wernz, l. c.; Bastien, o. c., p. 119; Bouix, o. c., vol. II, p. 486 and sq.

[28] Bouix, l. c., p. 489.

[29] Decr. S. C. de Rel., "Cum singulae," May 16, 1911.

[30] Wernz, o. c., vol. III, n. 676 in note.

[31] Vermeersch, Periodica, vol. VI, p. 47 sq.

crimes or by the condemnatory sentence of a legitimately constituted tribunal. The offenses entailing "ipso jure" dismissal are: apostasy from Faith, apostasy from the Institute (effective only after three months), elopement, and finally marriage or attempt at marriage. But even in these offenses a declaratory sentence is required by the law. In other crimes gravity of matter and malice of will must be demonstrated by a judicial process before ejection from the Institute can be inflicted. The gravity of matter must be adjudged according to the importance of the law and the penalty sanctioning it together with the amount of actual injury, whether moral or material, inflicted on the Community.

The court which sits in judgment, must consist of the superior general and a board of four members. In case some Congregation's organization does not provide an advisory board for the general direction, each case must be referred to the Holy See. The decision of this court is definitive, yet appeal to the Holy See, according to the regular Canons, is always admissible, *i. e.*, ten days under ordinary circumstances are allotted to have recourse to the Roman Congregations for Religious.

That the rights of the Institute and the accused be adequately defended, a "promotor justitiae" and a "defensor rei" must be appointed. The former is designated by the Congregation, while the accused may choose his own advocate; but should he fail to do so, it devolves upon the Institute to assign one.

The mode of procedure begins with the local superior-provincial, or quasi-provincial. Three admonitions and corrections must have proven futile, before a preliminary trial is instituted. In this trial the offense—or better offenses, for three specifically different crimes or their equivalents must be imputable—and malice must be demonstrated. The means of demonstration are the ordinary ones of Canon Law, viz., voluntary confession, two reliable and sworn witnesses, documents and other available aids.

After the charges have been duly authenticated and proven, the acts of the preliminary process are communicated to the general direction which will prepare the case and notify the accused to

prepare a defense on the charges of the "promotor justitiae." On the day designated the cause will be adjudicated and decided according to the merits of the proof, after both the "promotor justitiae" and "defensor rei" have been given ample time and opportunity to defend their causes.

Evidently the Religious cannot be ostracized from the Society before a decision has been handed down. In extraordinary cases, however, which do not suffer delay on account of imminent scandal or grave loss to the Institute, the provincial may proceed single-handed in applying measures which will ward off the threatened evil and only subsequently submit the case to the ordinary judicial process.

The effects accompanying judicial dismissal consist in perpetual suspension for clerics and the prohibition to receive any other Orders without the permission of the Holy See. All the dismissed and expelled members are not only prohibited from affiliating themselves to another Community, but are rendered incapable of making a valid profession, and consequently of participating in the spiritual favors of any Religious Community approved by the Holy See. Apparently the censures inflicted by Common law upon the Regulars for the commission of the above crimes which entail "ipso jure" dismissal, are not by the new law extended to Religious Congregations. The decree mentions specifically only the suspension and impediment to enter another Institute,[32] and therefore neither abrogates nor extends the censures of Common law.

In case those dismissed are clerics, the "Ordinarius originis et Ordinarius loci" of the suspended clerics must be notified. The Bishop, however, cannot by his ordinary power dispense from the censure, but recourse to the Holy See is necessary.[33]

These new regulations do not appertain to Institutes of laics with "temporary vows," nor to Institutes in which an oath or a

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[32] Cfr. Wernz, o. c., vol. VI, p. 284 sq.; Vermeersch, Periodica, vol. VI, p. 47 sq.

[33] Wernz, o. c., vol. VI, p. 221; Vermeersch, o. c., vol. VI, p. 50.

mere promise of perseverance is made. These are still governed by the general princples stated above or by their special constitutions approved by the Holy See. The Decr. "Cum singulae" evidently places Institutes of laics with perpetual vows on the same basis with Institutes of clerics in regard to dismissing members—one of the very rare instances in Canon law in which the power of true jurisdiction is conferred upon laics.[34]

For Institutes of Sisters with perpetual Simple vows the laws governing dismissal have received some modification by the same decree, but are not identified with those of Institutes of men. The four offenses entailing "ipso jure" dismissal are not extended to Nuns and Sisters. Certainly these crimes together with any grave, external, and public offenses which have rendered the person incorrigible, warrant dismissal, but the local Ordinary must verify the malice and gravity of the crime and the Holy See must confirm the sentence, before a Nun or Sister in perpetual vows may be ejected from the Institute. Only in cases of immediate danger of grave scandal or loss to the Community may the Ordinary supply the Holy See's confirmation. But, subsequently, the entire case must still be presented to the S. Congregation for Religious.

The power of dismissal in Institutes of women is naturally vested in the superior and presumably in the superior general, although the law makes no special distinction. As in Institutes of men, the advisory board of the Congregation has a definitive voice which must be expressed by a secret ballot, before ejection from the Institute becomes legal.

Legitimate dismissal does not in itself dispense from the vows. The Const. "Conditae a Christo" reserves the vows of approved Institutes to the Holy See. But one may safely presume that the Holy See will grant the necessary dispensation in conjunction with the confirmation of the sentence of dismissal. If not, the Religious would owe obedience to the Ordinary.

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[34] Vermeersch, l. c.

These same regulations extend likewise to Nuns with Solemn vows, but not to Sisters with only "temporary" Simple vows. The latter are still governed by the old discipline explained above which, after all, differs little from the new. The same, a fortiori, must be said of Institutes without vows and all diocesan Institutes whether they make perpetual or temporary vows.

The entire affair of both voluntary and compulsory surrender of the Religious life is of such supreme importance for the individual that ordinarily it should be considered only as a last resort and as the only means to avoid a greater evil. The Church realizes this more clearly than any Theologian or Canonist has ever been able to point out. Wherefore She safeguards the Religious life with the greatest supervision and strives to remove, or at least render remote, every danger that threatens it from the world without. She destroys the hopes and allurements of ecclesiastical rights, privileges, and honors which too often blind the intellect and weaken the will in their native prerogatives of rectitude and stability. She, moreover, circumscribes the authority of superiors that it may not be exercised unto destruction, but edification of souls destined to Life Everlasting. Thus in all things She shows Herself the kind Mother in bearing with the weaknesses of Her children, and the mighty defender of justice, right, and authority.

CHAPTER VII.

The Relation of Congregations to the Holy See.

The supreme authority over the Religious life and Religious Institutes is vested by divine commission in the Roman Pontiff. To him is entrusted the direction of the faithful not only in the way of precepts, but also in the path of counsels. He can, therefore, prescribe by general and particular laws whatever is necessary or useful for the conservation and development of the Religious life. But since the Religious life is only of counsel and obligatory only in virtue of and according to the terms of the contract, the papal authority is limited to the obligation assumed by the Religious profession: "Le pouvoir du Soverain Pontife est donc limitè par les termes mêmes du contrat de profession qui varie selon les instituts; mais ce pouvoir peut s'exercer sur tout ce que le religieux a promis, sur tout ce qui est necessaire pour le maintien de la discipline et le lien de l'état religieux, sur tout ce qui a rapport à la nature ou à la fin particulière d'un institut." [1]

The Institutes themselves, on the other hand, are purely ecclesiastical corporations, and for that very reason the inalienable right of supreme administrative power resides in the Roman Pontiff. Hence his absolute control over them is limited only by natural justice and equity. The Pope, therefore, may not only impose new obligations on an Institute, but may also alter or dissolve a Community.

In our rapid historical survey of Religious Congregations above, we have seen that the number of such Institutes is legion.

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[1] Bastien, o. c., p. 172.

There can be no question, then, that the Roman Pontiff would assume personal and immediate direction and government of them. It is well known that the Church has varied Her mode of government throughout the ages according to Her development and the constantly changing conditions of society. Hence we naturally expect to find that the Holy See has also exercised her supervision and authority over Religious Institutes in diverse ways at different times.

For many centuries the Holy See appointed Cardinal Protectors for each Institute and bestowed on them full jurisdiction in all matters concerning the individual Religious as also the Institute. Thus the Rule of St. Francis of Assisi prescribes: "Per oboedientiam ad haec injungo ministris, ut petant a Domino Papa unum de sanctae Ecclesiae Cardinalibus qui sit gubernator, protector et corrector istius fraternitatis." Manifestly this includes true jurisdiction and even a superior jurisdiction to that of the Order's prelates. So also do the words of Sixtus IV confer a real power of jurisdiction on the Cardinal Protector of the Carmelites: "In quibuscumque causis per eos (nempe Carmelitas) movendis quacumque ratione vel causa quae excogitari posset, eis ministrent justitiae complementum." [2] Other Orders made similar provisions.

Gradually, however, the Holy See diminished the powers of the Cardinal Protector until his office has become, according to Common law, a mere honorary one.[3] The Const. of Innocent XII "Christi fidelium" (Feb. 17, 1694), deprived him of all jurisdiction and administrative power and left him only the empty honor of some formalities when visiting the Community and of having his coat of arms over the portals of the Institute. But the office of mediation between the Society and the Holy See constitutes today the chief prerogative of the Cardinal Protector. Ordinarily an Order or Congregation seeks favors or justice

[2] Cfr. Pellizario, Manuale reg., Tract. 8, c. 8, n. 161.
[3] Bouix, o. c., vol. II, p. 167 et sq.

from the Holy See through the Cardinal Protector. Still even this is frequently unnecessary on account of the superior general residing near the Roman Curia. So in turn the Holy See generally entrusts to the Cardinal Protector the execution of all rescripts: "Cardinalibus Protectoribus Ordinum committuntur rescripta, quae universum Ordinem respiciunt: alia vero eis remitti vetitum est." [4] Furthermore in regard to the members of the Community Bouix aptly remarks: "Ex eo vero quod Cardinalis Protector jurisdictionaliter religiosorum causis et negotiis sese ingerere nequeat, non sequitur non posse eum in iis sese immiscere quatenus protector, id est, adjutor, amicus et advocatus. Immo hoc ipsius officium est, praesertim ubi tutandi sunt religiosi ab injuriis et oppressionibus. Agit autem ut protector qui requisitus juvamen praestat. Quod si Cardinalis Protector, non requirentibus aut invitis religionis praelatis, dirimenda negotia sibi arroget, eas inducit perturbationes, quas sublatas voluit Innocentius XII."

If, therefore, today the Cardinal Protector—for the practice of the Holy See to appoint Cardinal Protectors for Religious Institutes still obtains—possesses any jurisdiction over Religious Institutes, he derives it not from Common law, but from a special grant of the Holy See, or from the constitutions of the respective Institute.[5] Frequently the Holy See is wont to bestow special faculties on the Cardinal Protector of Communities of women. We have a very recent incidence of this. Pius X conferred actual governing powers upon the Cardinal Protector of the Order of St. Clare: "Ad Proto-monasterii gubernationem quod attinet, decernimus ut posthac habeatur tanquam Vicarius natus Cardinalis Protectoris vel Legati, Minister provincialis seraphicae provinciae a Santa Clara, incolumi Ministri generalis iure." [6] The Holy Father is here conferring actual jurisdiction, or rather

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[4] Bizzari, Collectanea, p. 613.

[5] Bouix, l. c.; Wernz, o. c., vol. III, n. 698; Vermeersch, de Rel. Inst., vol. I, p. 397.

[6] Brief, "Quamquam," Aug. 9, 1912.

he is confirming the exemption given by Leo XIII to the Monastery of St. Clare: "Assissiense monasterium S. Clarae a quavis jurisdictione eximimus . . . perpetuum in modum Nostrae ac successorum Nostrorum immediate jurisdictioni subiicimus. Huiusmodi autem jurisdictionem venerabili fratri Nostro . . . uti apud S. Sedem Protectori universae Fratrum Minorum S. Francisci de Observantia familiae. Eiusque hoc in munere Cardinalibus successoribus, perpetuis futuris temporibus, delegamus." But this is exceptional in modern Roman procedure.

From the sixteenth century on, the Holy See has been governing the Religious Institutes through the Roman Congregations. In 1586 Sixtus V reorganized the Roman Curia and created the Congregation for the affairs of Religious: "Congregatio Episcoporum et Aliorum Praelatorum," and confirmed the "Congregatio super consultationibus Regularium." [7] The two Congregations frequently overlapped each other in their competency, wherefore the "Congregatio super consultationibus Regularium" was united with the one of Bishops and Regulars in 1601.

Innocent X instituted another Congregation exclusively for the reform of Religious Orders in Italy, and called it "Congregatio super statu Regularium." [8] Naturally its work was short-lived and its competency very limited. This induced Innocent XII to create the "Congregatio super disciplina regulari," and to confer upon it not only all the authority of the former Congregation, but also to bestow on it a certain authority over all the Religious Orders and Congregations within the Church. Apparently the authority of the new Congregation included no true jurisdiction, but rather an inquisitorial and consultative faculty which made the new Congregation a sort of commission to suggest reforms of the Religious life to the Holy See.

Instead of endowing this Congregation with the necessary jurisdiction to conduct the daily increasing affairs of Religious in

[7] Const. "Immensa aeterni," Jan. 22, 1587; "Romanus Pontifex," May 17, 1586.

[8] Const. "Instaurandae," Oct., 1652; "Injuncti," April 11, 1668.

the nineteenth century, Pius IX formed another Congregation: "Congregatio super statu Regularium Ordinum." [9] This third division in the government of Religious Institutes resulted in still greater confusion. The competency of each was not clearly defined, nor their obligations determined.

To this state of affairs were added still more difficulties: First, by the fact that the "Congregatio Concilii" interpreted the laws of the Council of Trent; then, the "Congregatio de Prop. Fide" supplied the other Congregations in mission territories and in the Oriental Church; and, finally, the "Congregatio pro negotiis ecclesiasticis extraordinariis" attended to all the affairs for the Religious in Russia and South America. Little wonder then that such a practical Pontiff as Pius X saw the necessity of reform in the methods of conducting the administration of Religious.

By the Const. "S. Congregationi" (May 26, 1906) Pius X abolished the two above-mentioned Congregations of Innocent XII and Pius IX, and transferred all matters concerning Religious to the one Congregation of Bishops and Regulars. But with the reform of the entire Roman Curia in 1908, this Congregation disappeared, and the part of its competency appertaining to Religious became vested in the new "Congregatio de Sodalibus Religiosis": "Ipsius enim est moderari, pro recta disciplina, quidquid Religiosos utriusque sexus attingit." [10] In the following words the territorial jurisdiction of this Congregation is outlined still more explictly: "Haec S. Congregatio iudicium sibi vindicat de iis tantum, quae ad Sodales religiosos utriusque sexus tum solemnibus, tum simplicibus votis adstrictos, et ad eos qui, quamvis sine votis, in communi tamen vitam agunt more Religiosorum, itemque ad Tertios Ordines saeculares, in universum pertinent, sive res agatur inter religiosos ipsos, sive habita eorum ratione cum aliis." [11]

The personnel of this Congregation consists of a Cardinal pre-

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[9] Const. "Ubi primum," June 17, 1847.
[10] Const. "Sapienti consilio," June 29, 1908.
[11] Ibidem, Pars I, Art. 5, n. I.

fect, secretary, sub-secretary, associate Cardinals, consultors and some minor officials. In 1915 eighteen Cardinals, twenty-nine consultors and thirteen minor officials were enumerated as constituting the entire Congregation.[12] To facilitate the handling of the great amount of work that devolves upon this Congregation, it has been divided into three divisions. Distinct Commissions, therefore, regulate the affairs of Religious Orders, of Religious Congregations for men, and of Religious Congregations for women. Finally a special Commission for the approving of all New Institutes and their Constitutions, as was mentioned in Chapter V, has been appointed recently. The first three Committees, or "Congresses," purpose to prepare the respective matter for deliberation in the entire Congregation, to carry out the result of these deliberations according to required formalities, and, in minor affairs, to decide controversies and grant favors on their own authority.[13]

Not a universal jurisdiction, however, has been entrusted to this Congregation. Its competency is defined in the terms: "Est autem tribunal competens in omnibus causis, quae ratione disciplinae, seu, ut dici, solet, in *linea disciplinari* aguntur, religioso sodali sive convento sive actore; ceterae ad Sacr. Rom. Rotam erunt deferendae spectantes." [14] As to questions affecting Religious and Bishops, the Congregation for Religious "ea omnia sibi moderanda assumit, quae sive inter Episcopos et religiosos utriusque sexus sodales intercedunt, sive inter ipsos religiosos." [15] Hence all administrative and discipline matters are subject to the Congregation for Religious, but judicial affairs to the Sacred Rota.

In the new papal Constitution and its accompanying "Normae communes" and "Normae peculiares," no clearly defined dis-

[12] "Annuario Pontificio," 1915.
[13] "Normae peculiares," June 29, 1908.
[14] Const. "Sapienti consilio," Pars. I, a. 5, n. 2.
[15] Ibidem.

tinction between disciplinary and judicial procedure is made.[16] Ojetti thinks that all disputes between a member and his Community are to be decided "in via disciplinaria"; while controversies arising between different Institutes or between Institutes and Bishops must be treated "per modum iudicii," and therefore by the Sacred Rota.[17] The latter supposition has been verified in a case in 1909.[18] But by the Decr. "Cum singulae" (May 16, 1911), the "Congregation for Religious" has also received a true judicial jurisdiction, in as far as it has been constituted the competent tribunal for receiving and deciding the appeals in all cases of expulsion and dismissal of Religious. Then by a late decision the S. Consistorial Congregation determined that not the Congregation for Relgious, but the "Congregatio Concilii" possesses the competency of awarding secular parishes to Religious.[19] Finally a certain jurisdiction over Religious is proper to the new "Congregatio de Seminariis et de Studiorum Universitatibus"; in those cases, viz., where Religious conduct Seminaries or Universities. In all matters appertaining to these institutes of learning the new Congregation oversees and directs, "etiamsi regantur a religiosis Sodalibus." [20]

Reference has already been made to the limitation placed upon the jurisdiction of the Congregation for Religious in mission territories. We merely repeat them: "Quod vero spectat ad Sodales religiosos, eadem Congregatio (*i. e.*, Congr. de Prop. Fide) sibi vindicat quidquid Religiosos qua Missionarios, sive ut singulos, sive simul sumptos tangit." [21]

The principal method employed by the Holy See to insure prudent administration and legislation for Religious Institutes by the Sacred Congregation, is the triennial report from each

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[16] Ojetti, "De Romano Curia," p. 100 et sq.
[17] Ibidem, p. 106.
[18] S. Rota, Decis., in Pharen. Iurium et Poenorum," July 29, 1909.
[19] Decr. S. C. C., July 5, 1915.
[20] "Motu proprio," Nov. 5, 1915.
[21] Const. "Sapienti consilio," part I, art. 6, n. 5.

Institute. Formerly the Holy See was accustomed to insist on this in the particular indults of approval, but since 1906 it has become an obligation of Common law. The details of this report have been completely outlined and prescribed in ninety-eight questions: "Modus et ratio conficiendi relationem omnibus et singulis, ad quos spectat, communi lege praescribatur."[22] This account together with the detailed report of Ordinaries exacted upon their "ad limina" visit, ordinarily affords the basis for Pontifical direction of and legislation for Religious Institutes.

Sometime, however, it may happen that the Roman ordinances are not brought to the knowledge of some Religious Institutes, or they may be disregarded at times. Wherefore the Ordinaries are made responsible for the due promulgation and observance of Roman decrees for Religious: "Haec igitur S. Congregatio Negotiis Religiosorum Sodalium praeposita, summopere commendat Reverendissimis locorum Ordinariis eorumqe delegatis seu deputatis ad Monasteria, praesertim Monialium, quae domum sui iuris constituunt, nec generalem Superiorissam habent, ut notitiam decretorum, etiam in posterum edendorum, quae vitam religiosam respiciunt, efficaciter evulgent inter Religiosas Familias et Instituta quoque dioecesana, ad abusus, si qui irrepserint, tollendos ad bonum largius diffundendum et uniformitatem in rerum canonicarum observantia ubique obtinendam."[23] The mind of the Holy See, therefore, is that even diocesan Institutes be directed by the regulations for approved Institutes, not indeed in the sense that they always constitute strict laws for diocesan Congregations, but that the Ordinaries at least endeavor to conform diocesan Institutes as much as possible to the government of approved Communities. But above all, the Holy See insists that the Ordinaries supervise the reception and observance of pontifical laws by approved Institutes although they be exempted.

What has here been said of general laws and prescriptions, holds also to a great extent for rescripts. In many instances

[22] Decr. S. C. de Rel., July 16, 1906.
[23] Decr. S. C. de Rel., July 3, 1910.

the Holy See is want to transmit and execute also its particular orders through the Bishop: "S. C. solet in Executores deputare Episcopos, et Ordinarios Nullius etiam in rescriptis pro Regularibus, si agatur de clausura, de alienationibus, de saecularizationibus religiosorum, de erectione novorum conventuum ac Institutorum et quoad Moniales in omnibus rescriptis. Si vero agatur de negotiis, executionem committere Superioribus regularibus, nempe vel Generali, vel provinciali vel abbati monasterii prout rei adiuncta exigunt." [24] If this is the practice of the Holy See in regard to Regulars, we can safely suppose that the same custom prevails in favor of Congregations.

In the following pages it will appear more in detail that the Ordinaries possess a far greater authority over Religious Congregations than merely that of promulgating and executing Roman decrees. For Regular Orders this suffices, because they are entirely exempted from the Ordinary's jurisdiction and are placed directly under the exclusive jurisdiction of the Holy See. This is not the case in Congregations. The Holy See, indeed, assumes the direct and immediate government of approved Institutes in the manner explained, but at the same time it preserves as much of the ordinary Episcopal authority as is compatible with the nature of these Communities. But this will be developed in the subsequent chapter.

[24] Bizzarri, Collectanea, p. 613.

CHAPTER VIII.

The Relation of Congregations to the Ordinary.

A threefold standard must be considered in determining the relation of Religious Institutes to the local Ordinary. By "Ordinary" in the present chapter is understood the Bishop, Abbas Nullius, Vicar Apostolic and Prefect Apostolic; for the relation of each to Religious Congregations within their jurisdiction, "ceteris paribus," is identical.[1] The triple standard arises from the canonical status of an Institute as diocesan, inter-diocesan, or as an approved Congregation.

The general laws regarding the Ordinary's jurisdiction over the respective Communities within his diocese are clearly laid down in Canon law. As to diocesan Institutes, the Const. "Conditae a Christo" states: "Eae una inductae sunt atque vigent Antistitum sacrorum auctoritate." No less clear is the decree "Dei providentis" in regard to inter-diocesan Congregations: "Instituta sodalitas, quamvis decursu temporis in plures dioecesas diffusa, usque tamen, dum pontificiae approbationis aut laudis testimonio caruerit, Ordinariorum jurisdictioni subjaceat." With pontifical approval, however, an Institute is placed "sub regimine Moderatoris generalis, salva Ordinariorum jurisdictione ad formam S. Canonum et Apostolicarum Constitutionum."[3] The limitations this approval puts on the powers of the Ordinaries must be collected "ex ipsa decernendi ratione Sedi Apostolicae consueta in eiusmodi consociationibus approbandis."[4] Hence the general principle as to all Religious Congregations is this:

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[1] Vermeersch, Periodica, vol. VII, pp. 20-43.

[2] Decr. c., n. 5; III C. Baltimore, n. 93.

[3] Const. "Conditae a Christo," in the introduction.

[4] Ibidem.

The Ordinary possesses full jurisdiction over them in both the internal and external forum except in those matters expressly exempted by the Holy See.

No one doubts that the Ordinary may confer jurisdiction on clerics of Religious Institutes, for, "potest quis per alium, quod potest facere per seipsum."[5] We say "clerics," because the Sacred Canons prescribe, "ut laici ecclesiastica negotia tractare non praesumant."[6] But the Ordinary possesses no powers contrary to the Common law.

The same jurisdiction, however, may also be conferred by custom. This is an accepted principle of ecclesiastical law. Authors dispute as to the length of time required for a legitimate custom to confer jurisdiction, but it is a probable opinion that ten years suffice.[7] Hence some Religious Societies may readily have acquired a certain exemption from episcopal jurisdiction in virtue of custom.

This power of Ordinaries and custom is invoked especially when determining Religious Communities' exemption from parochial obligations. Some authors are reluctant to restrict the pastor's ordinary rights, but Wernz says: "Non solum indulto apostolico et legitima consuetudine, sed etiam statuto Episcopo fieri potest, ut communitas quaedam religiosa vel conservatorium vel convictus vel similia instituta, licet intra parochiam maneant, a cura ordinaria parochi eximantur et proprio capellano subiiciantur."[8] Canonists in general hold that Religious Congregations are exempt by custom from the jurisdiction of the pastor in whose parish they are situated.[9]

The Holy See, however, may certainly exempt Institutes from the jurisdiction of both Bishop and pastor and confer on them all the necessary powers for an independent government. As to

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[5] Regula Juris, 68 in 6°.

[6] Cap. 2, De judicibus, X, lib. II.

[7] Vermeersch, o. c., vol. VII, p. (28).

[8] O. c., vol. II, n. 828.

[9] Bastien, o. c., n. 353 and 406; Bouix, De Reg., vol. II, p. 349.

Institutes of clerics no difficulty presents itself. But Institutes of laics may also receive a limited jurisdiction from the Holy See, notwithstanding the general Canons to the contrary. In fact, as we saw in the sixth chapter, this is verified in the case of judicial expulsion and dismissal. Some apparent difficulties, however, arise in Institutes of women. Bargilliat says: "Neque femina capax est jurisdictionis, saltem de jure ecclesiastico." [10] And St. Thomas declares: "Feminam non posse habere aliquam jurisdictionem spiritualem." [11] But Benedict XIV, when outlining the status of the Anglican Sisters, draws attention to the fact that "nec agitur de tali superiorissa generali, quae amplam quandam jurisdictionem in subditas exercere, ipsaque ab ordinaria Episcopi auctoritate exempta esse debeat." [12] The Pope, therefore, supposes that jurisdiction is vested in some feminine superiors. Hence Bouix's conclusion on this point in regard to Abbesses may also be applied to superiors of Congregations: "Si quando abbattissa aliqua jurisdictionem habuerit, id non juri communi tribuendum est, sed pontificio privilegio." [13]

The powers of Ordinaries may be restricted even over diocesan Congregations. Vermeersch thinks that the pontifical laws of alienation of ecclesiastical property, prohibit the Bishop from dissolving a diocesan Institute: "Gravem tantum ob causam potest extinguere Institutum vel tollere domum. Immo, ob vetitam alienationem bonorum ecclesiasticorum, vix id fieri poterit sine S. Sedis interventu." [14] He confirms his opinion by the enactment of the Latin-American Council (n. 322), held in 1899, which forbids Bishops to dissolve any Religious Community without the consent of the Holy See. This reasoning is strengthened by the Decr. "Dei providentis" (n. 3) which prohibits Bishops from changing anything upon which the Holy See has passed

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[10] Praelectiones J. C., n. 209.
[11] In Bouix, o. c., p. 425.
[12] Const. "Quamvis justo," April 30, 1749.
[13] L. c., p. 425.
[14] De Rel. Inst. et Pers., Vol. I, n. 386.

judgment. But in spite of all this, the Const. "Conditae a Christo" states: "Semel approbatae sodalitates (by the Bishop) ne extinguantur nisi gravibus de causis, et consentientibus Episcopis, quorum in ditione fuerint." (c. l., art. 6.) Apparently, "positis ponendis," this supposes the right of abolishing an Institute when spread into different dioceses. Why, then, a Bishop should possess a lesser power towards purely diocesan Societies is difficult to see.

A definite limitation, however, is placed upon the powers of each Ordinary, when an Institute extends over several dioceses. No Community may establish houses in another diocese without the consent of the respective Bishops.[15] But when the Ordinaries "a quo et ad quem" have given this consent "nihil de ipsius natura et legibus mutari liceat, nisi singulorum Episcoporum consensu, quorum in dioecesibus aedes habeat." [16] For the Institutes in the United States, the Council of Baltimore adds: "Hae communitates filiales, ipsius conventionis vi, quoad internum regimen et administrationem maneant sub oboedientia superioris vel superiorissae conventus primarii." [17]

Besides limiting the Bishop's power in diocesan Institutes, the Holy See has enjoined several positive duties towards them. The one respecting the reception of members has already been referred to. Then, he is obliged to preside over the election of superiors in Communities of Sisters[18] and promulgate all decrees regarding Religious Communities as was also stated before.

The partial exemption, however, from Episcopal jurisdiction which approved Institutes enjoy by a special grant of the Holy See, is common to all Religious Congregations of Simple vows, but it refers exclusively to the internal administration and government: "Certam aliquam Congregationem approbari . . . sub regimine Moderatoris generalis, salva Ordinariorum juris-

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[15] Const. "Conditae a Christo," c. 1, n. 4.
[16] Ibidem, n. 5.
[17] III, C. Balt., n., 93.
[18] Const. "Conditae a Christo," c. 1, n. 9.

dictione ad formam S. Canonum et Apost. Constitutionum." [19] The main relations, both temporal or spiritual, of an approved Institute with the outer world are strictly regulated by the Holy See and in many instances are subject to the local Ordinary.

Thus, in the first place, may be mentioned the right of Ordinaries to permit or prohibit the establishment of a new Religious house, Church, or Oratory.[20] Evidently a permission once granted and acted upon, begets rights in justice which no Bishop may violate with impunity. In case the Community wishes to continue its residence in the diocese, the Bishop would ordinarily be obliged to appeal to the Holy See before he could expel a Congregation from his diocese. Strict justice would seem to dictate this. The same may be deduced from a parallel case in Bouix (De jure Reg., Vol. II, p. 357 ss.).

Again by the general Canons the Church forbids the alienation of ecclesiastical property ("res immobles vel mobiles pretiosae") without the consent of the Holy See.[21] This law affects also Religious Congregations,[22] and binds them under censure of excommunication (latae sententiae).[23] Where Bishops have special faculties to dispense from this law, they may likewise use them in favor of Religious Institutes.[24] The common opinion, however, of Canonists maintains that no valid custom can arise in prejudice to this law of alienation of property.[25] The chief reason for this opinion seems to be the clause "non obstantibus consuetudinibus etiam immemorabilibus." But the same clause has been affixed to other laws and also to the various decrees of the C. of Trent, yet, in spite of it, some of the Tridentine regulations

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[19] Ibidem, Introduction and c. II, n. 1.

[20] "Conditae a Christo," c. II, n. 3.

[21] C. 5, tit. 13, X, lib. III; et eod. 1. in 6°; Const. "Ambitiosae," 1468. (c. un. tit. 4, lib. III in Extrar. comm.).

[22] Litterae S. C. de Prop. Fide, to Archp. of Milwaukee, Jan. 15, 1903.

[23] Const. "Ap. Sedis," ser. 4, n. 3.

[24] In same letter to Archp. of Milwaukee.

[25] Ojetti, o. c., n. 295 sq.; Bastien, o. c., p. 319; Wernz, o. c., vol. III, n. 160; Dannibale, "Summ. Theol.," vol. III, p. 80.

have passed into desuetude. Hence the great Canonist Bouix felt constrained to say, "Non video cur consuetudo haec pro legitima non haberetur." [26]

Closely akin to the law of alienation of ecclesiastical property, and subject to the same penalties, are the late regulations forbidding Religious Institutes to contract any debts or assume any economic obligation which exceeds $2,000.00 (10,000 libellae) without the special consent of the Holy See.[27] Through the Apostolic Delegate at Washington, D. C., the Holy See has granted an extension of this maximum sum to Communities in the United States provided they obtain this faculty from their respective Bishop: "I, therefore, (the Apostolic Delegate) in virtue of the said rescript, hereby authorize, for a period of ten years, the *Ordinaries* of the dioceses of the United States, "onerata tamen eorum conscientia," to permit the Religious Communities of their respective dioceses to contract debts up to the sum of 50,000 francs ($10,000) without having recourse to the Holy See. It is, however, to be understood that all other provisions of the above decree remain in force." [28] We can hardly suppose that the Holy See intends to inconvenience Communities to such an extent that they must recur to Rome for permission in order to contract ordinary debts which the Institute's normal income during the year can readily meet. For the decree purposes to check the growing abuses "aeris alieni inconsulto et intemperate suscipiendi." [29] Then, too, debts may be more than counterbalanced by an Institute's credits which are at its free disposal. Thus Vermeersch interprets article III: "Ut non consideranda dicamus nisi debita quae superent pecunias et titulos semper commutabiles quae in libera sint monasterii possessione (exclusis proinde "capitalibus" et monialium dotibus). Hac ratione,

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[26] De jure Rel., vol. 2, p. 302.
[27] Instructio S. C. de Rel., "Inter ea," July 30, 1909.
[28] Eccl. Review, p. 93, Nov., 1915.
[29] Instructio, "Interea," cit. Periodica, vol. V, p. 15.
[29] Periodica, vol. V, p. 15.

monasterium quod habeat 10,000 fr. sed liberas habeat pecunias 15,000 fr. nullo debito oneratum censeatur." [30]

Another privilege and custom which is subject to great abuses among Religious, and, therefore, strictly regulated by ecclesiastical law, is the collecting of alms. In this matter the Council of Trent subjects Religious to the authority of Bishops: "Quibus (Episcopis) etiam eleemosynas atque oblata sibi caritatis subsidia, nulla prorsus mercede accepta, fideliter colligendi facultas datur, ut tandem coelestes hos ecclesiae thesauros non ad quaestum, sed ad pietatem exerceri omnes vere intelligant." [31] The Tridentine law for Regulars has been extended to all Religious, and in the case of approved Societies the further obligation of obtaining the explicit permission of the Holy See has been added.[32] But pontifical Institutes as well as diocesan are required to have the permission of the local Ordinary before they may collect alms from the faithful even when this is their ordinary means of sustenance. The mere fact that an approved Institute has received permission from the Apostolic See, either in the approved Constitutions or by a special concession, does not exempt it from the jurisdiction of the Ordinary in this matter; "Religiosi . . . Congregationum juris Pontificii, qui privilegium quaeritandi eleemosynas neque vi propriarum Constitutionum a S. Sede approbatarum neque vi Apostolicae concessionis guadent, veniam Apostolicae Sedis impetrare debent, ut quaestuationes instituere valeant; praeterea licentiam per suos Superiores ab Ordinario loci obtinere tenentur." [33] The same decrees lay down specific directions for the proper regulation of all alms-collecting. These specifications do not include Mendicant Orders.

If the Church has prescribed so minutely these outer relations of Congregations in material things, the conclusion lies very

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[30] Ibidem.

[31] Sess. 21, c. 9.

[32] Decr. S. C. EE et RR, "Singulari quidem," March 27, 1896; Decr. S. C. de Rel., "De eleemosynis," Nov. 21, 1908.

[33] Decr. De eleemosynis, c. II, n. I.

near that She has not been remiss in tracing even with a much greater solicitude and exactness the relations in things spiritual or quasi-spiritual on the part of both Bishop and Congregations. Thus the Bishop is obliged to seek the consent of the Holy See and observe the formalities of Canon law in order to transfer the government of a diocesan seminary or give a parish permanently to a Religious Congregation: "Imo ne religiosis quidem congregationum votorum simplicium, nisi habeant speciale privilegium, potest episcopus sine licentia sedis apostolicae seminaria regenda tradere." [34] As to parishes, the general law of alienation of ecclesiastical property would already forbid this, even if there were no other regulations. But the Council of Baltimore states explicitly: "Consultorum item requiretur consilium, quando id agitur, ut missio seu parochia tradatur alicui familiae religiosae; quo in casu necessaria erit etiam venia S. Sedis." [35] Bishops, however, possess full power for sufficient reasons to divide parishes that belong to Religious and award the new parishes to secular priests.[36] Some authors would impose the duty of seeking the Chapter's consent also for the division of a parish, but since Bishops possess this power not only in virtue of their ordinary jurisdiction, but also by a pontifical grant, it seems that they can proceed without the consent of the Chapter or of the consultors in Mission countries.[37] Canonists generally admit that a legitimate custom contrary to the law requiring the "Beneplacitum Apostolicum" for these transfers is quite valid. Bouix justifies such a custom for France.[38] But where the permission of Rome must be sought, the S. C. Concilii, as mentioned above, has the power to confer it, while the S. C. de Rel. grants the necessary faculties to the Religious in case their Constitutions prohibit parochial work.

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[34] Ojetti, o. c., n. 3419; Bargilliat, o. c., n. 267; Bouix, o. c., vol. II, p. 357.
[35] III C. of Balt., n. 20.
[36] Ojetti, o. c., nn. 3022, 3028.
[37] Ojetti, o. c., n. 3026.
[38] De jure Rel., Vol. II, p. 357; Vermeersch, Periodica, Vol. II, p. 4 sq.

This does not imply that the law forbidding Regulars to assume diocesan offices is extended also to Religious of Congregations. On the contrary, they are free, with the consent of their superiors, to take charge not only of parishes, but of any diocesan office provided their Constitutions do not prohibit it. In this latter case recourse to the Holy See would be necessary.[39]

In regard to the office of preaching within diocesan parishes some special observations are necessary. Not only by divine command, but also by the explicit Canons of the Church, is the office of preaching the Word of God committed to the Bishops. If a Religious or Secular is to announce the Divine Message, he can do so only with a commission from the local Ordinary.[40] Regulars strictly so called must seek the Bishop's permission to preach outside of their own Church.[41] How much more then does this become a duty of the members of Religious Congregations! For announcing the Word of God in Religious houses of Communities, the papal Constitution says (Conditae a Christo, c. II, a. 8); "Horum (Episcopi) erit sacerdotes ipsos et a sacris designare et a concionibus probare." Evidently this appertains chiefly and directly to Institutes of women and of lay Brothers, for in Institutes of clerics, the general faculties granted to their priests would include also the right and in fact the duty of preaching the Gospel to the inmates.

But more than a mere permission to preach is demanded by later legislation. Pius X prescribed that "iusiurandum praestare debent Religiosi qui . . . sacris concionibus habendis destinantur coram eo a quo approbationem . . . obtinent." [42] This oath refers to Modernism. By a still later decree the Holy See requires that no Bishop may approve or permit a Religious to preach within his diocese unless he present testimonials in

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[39] Bouix, l. c.

[40] C. 15, tit. 31. X. lib., I; C. Thent, Sess., 5, c. 2.

[41] C. Trent, l. c.

[42] Const., "S. Antistitum," Sept. 1, 1910; Decr. S. C. C., Dec. 17, 1910.

regard to his standing and ability from his superior.[43] Should any Bishop ever have forbidden a particular Religious to preach within his diocese, the superior is obliged to make mention of the fact in the testimonials.[44] Furthermore pastors are cautioned not to invite such a one into their parish.[45]

It may be questioned whether the Ordinaries' jurisdiction over all Religious extends also to the power of compelling them to partake in diocesan processions. The Council of Trent and later decrees from Rome assert this right for Bishops over Regulars,[46] but in regard to other associations Ojetti says: "Compelli non possunt ad interveniendum processionibus associationes aliae religiosae; sed haec quoque, si velint, etsi non sint stricte confraternitates locum in ipsis habent." [47] Bastien, however, claims that Bishops can compel members of Religious Congregations to partake in diocesan processions, even by inflicting ecclesiastical censure.[48] Perhaps the golden mean lies nearer the truth, viz., in cases where Religious hold parochial or diocesan offices, they are at the bidding of Bishops.[49]

Truly the Ordinary's powers over Religious embraces the right to inflict censures: "In foro autem externo, eidem (Episcopo) subsunt quod spectat ad censuras," but the Apostolic Constitution immediately adds, "quas Antistites sacrorum *fidelibus suis* impertire queant." [50] This faculty hardly proves that Bishops can force Religious to take part in processions. In fact Rome has repeatedly answered that Ordinaries overstep their powers when they attempt to compel even secular clerics who possess no benefice or Religious Confraternities to participate in processions.[51]

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[43] Eadem decl., Dec. 17, 1910; et Responsio S. C. C., Sept. 25, 1910.
[44] Ibid.
[45] Ibid.
[46] Sess. 25, c. 13; Decr S. C. EE et RR., Dec. 12, 1902.
[47] O. c., n. 3298; Mon. Eccl., vol. IX, pp. 2, 116.
[48] O. c., n. 410 sq.
[49] Ibid.
[50] Const. "Conditae a Christo," c. II, a. 5.
[51] Ojetti, l. c.

Within the Congregation itself, however, the Bishop's authority is supreme and unrestricted in all things appertaining to Divine Worship, to conscience and to the administration of the Sacraments. Clearly and emphatically are enumerated the rights of the Bishop over places of Divine Worship: "Episcoporum sunt iura in dioecesi cuiusque sua . . . nova ab illis templa excitari, oratoria seu publica seu semipublica aperiri." [52] Leo XIII classed all those oratories as semi-public "quae . . . commodo alicuius communitatis inserviunt." [53] Some doubts have been proposed as to the Bishop's power of permitting the erection of a plurality of chapels in a Community.[54] The question becomes more involved by the two responses of the Holy See, in which this right was denied to certain Bishops.[55] But from the Leonine definitions of semi-public and private chapels one is hardly forced to consider chapels in Religious Communities as private over which the Bishop has no power. The late decree on private oratories leaves the question untouched.[56] Vermeersch remarks on this decree: "Dubium istud manere utrum necne velit si enim responsa ista adhuc urgeantur." [57] Gasparri, Many, Bastien, and others maintain that the above-mentioned decisions were particular and consequently leave the powers of the Bishops intact.[58] Hence we can safely say that the Ordinaries can permit the erection of several chapels in Religious Communities without recurring to the Holy See. This question becomes practical at times; for more chapels are often desirable for the convenience of aged, sick, and infirm members of the Communities. Such chapels would still be "in commodum communitatis," and hence left to the discretion of Bishops.

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[52] Const. "Conditae a Christo," C. II, n. I.

[53] Decre. S. R. C. Jan. 23, 1899.

[54] Bastien, o. c., n. 340; Wernz, o. c., vol. III, n. 457; Vermeersch, De Rel., Inst. et Pers. T. I, n. 511.

[55] Responsiones, S. R. C. March 8, 1879; Jan. 23, 1899.

[56] Decr. S. C. de Sacr., Feb. 7, 1909.

[57] Periodica, vol. V, p. 111.

[58] Gasparri, De Euch. t. I, n. 214; Many, De locis sacris, n. 100.

The same law that leaves to the Ordinary the erection of chapels, also reserves the right of celebrating the Sacrifice of the Mass therein to him: "Episcoporum sunt iura . . . sacrum fieri in domesticis sacellis." This, however, does not include the rubrics that must be followed in celebrating the Holy Sacrifice. Until recently very many Communities possessed special privileges not only in the celebrating of the Mass, but also in the recitation of the Divine Office. At present the new law, common to all Congregations in this matter, reads: "Congregationes seu Instituta utriusque sexus a S. Sede approbata et sub regimine unius praesidis generalis constituta, si ad recitationem D. Officii teneantur, proprium pariter habeant Kalendarium." [59] Hence the Bishop cannot exercise any jurisdiction over the Calendar in such approved Institutes.

On the contrary, Institutes which are either not under a general direction, or are not obliged to recite the Office, have been compelled to surrender all their privileges and conform their rubrics to those of the respective diocese: "Congregationes et Instituta, quae sive Ordinaria sive Apostolica auctoritate sint approbata, non tamen comprehendantur paragrapho praecedenti, uti debent Kalendario Dioecesano, prouti iacet, additis iuxta Rubricas, Officiis quae ipsis peculiariter concessa" (Ibidem). In both regulations there is question directly only of the Divine Office, but no one doubts that they apply equally to the Holy Sacrifice. Some hesitancy might be felt in regard to parishes entrusted to Religious. But the same law holds good in the celebration of Mass in parish Churches permanently or indefinitely assigned to the Congregations. The Bishop of Seckau asked the S. C. R. upon this question and received the following reply: "Si parochia sit monasterio vel domui religiosae incorporata, aut eiusdem monasterii seu domus curae in perpetuum vel indefinitum tempus concredita, vel communitas apud ipsam parochialem ecclesiam divina peragat, in Missis Kalendarium Religiosorum semper adhibeatur;

[59] Decr. "Rubricae," S. R. c., Feb. 28, 1914.

secus item in Missis Kalendarium Dioecesanum semper sevetur."

The privilege or exception that the first class of Institutes mentioned enjoy, does not exempt Religious from celebrating within their Institutes or their parishes the principle diocesan feasts, such as of the dedication of the Cathedral, of its patron or titular feast, and of the principal patron feasts of the respective diocese. These must be celebrated by all Religious[61] and, therefore, in them the diocesan calendar must be followed. As to titular or patron feasts of the parishes entrusted to Religious, Rome has said: "Communitas Religiosorum, quae cuidam publicae ecclesiae fuit addita, tenetur ad officium patroni titularis huius Ecclesiae et per totam octavam." [62] Evidently the same rubrics would obtain in regard to the celebration of the Holy Sacrifice of the Mass.

On the other hand, Institutes which are now obliged to follow the diocesan calendar, still enjoy the privilege of celebrating the special feasts of the Community with the accustomed solemnities in the same manner as heretofore: "Uti debent Kalendario Dioecesano . . . additis iuxta Rubricas officiis quae ipsis peculiariter concessa" (supra).

A limitation, however, on the Bishop's powers must be mentioned in regard to the conservation of the Bl. Sacrament in these semi-public Oratories. Benedict XIV requires a papal indult for this.[63] Canonists hold that this law is still in force,[64] except in places where a contrary custom has obtained the force of law. Ordinarily the Holy See is wont to grant the permission of conserving the Bl. Sacrament in the Chapel only upon the condition that the Holy Sacrifice is celebrated at least once

[60] Responsum, S. R. C., Apr. 22, 1910.

[61] "Rubricae," Feb. 28, 1914.

[62] S. R. C. Apr. 7, 1876.

[63] Const. "Quamvis justo," April 30, 1749.

[64] Ojetti, o. c., n. 2059 sq.; Canoniste Cont. 1902, p. 182; Bastien, o. c., n. 358.

a week.[65] If no conditions are stipulated in the indult, Doctors maintain that the Holy Sacrifice must be celebrated every day.[66]

Quite the contrary obtains in the right of exposing the Bl. Sacrament for public adoration. Here Bishops retain their ordinary jurisdiction: "Episcoporum sunt iura . . . Sacramentum augustum proponi palam venerationi fidelium."[67] From the phrase "palam venerationi fidelium," authors deduce the right for Religious to expose the Bl. Sacrament without Episcopal permission when none but members of the Community are present.[68] In fact this distinction between public and private or quasi-private religious service is quite constant throughout the entire Constitution of Leo XIII. Immediately upon stating the law of public Exposition, the Pontiff adds: "Episcoporum similiter est sollemnia et supplicationes, quae publica sint, ordinare." Now it is evident from what has already been said that the Bishop's powers hardly extend to compelling Religious to partake in public processions and other similar religious functions. But were a Community to inaugurate a public procession, they would certainly require the Ordinary's permission according to this regulation. Nor can the rights of Bishops to ordain public prayers include also the prayers of the Community, for these are generally provided for in the Rule of the Society which the Holy See has acknowledged. Therefore it seems that Bastien's opinion given above in regard to the exposition of the Bl. Sacrament would follow quite naturally.

Frequently pious souls establish certain foundations or bequeath certain sums of money in the form of legacies to Religious Communities for the purpose of providing for divine worship or for some works of charity. The administration of these indeed appertains to the Congregations. But they are ac-

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[65] Decr. S. R. C. May 14, 1889.

[66] Ojetti, o. c., n. 2060; Mon. Eccl. vol. XIII, p. 519. Decr. S. C. EE et RR, Feb. 9, 1904. Decr. S. R. C. May 14, 1889.

[67] Const. "Conditae a Christo," C. II, n. 1.

[68] Bastien, o. c., n. 361.

countable to the Ordinary for them. The Bishop has the right to inquire into their preservation and prudent administration.[69] But their alienation is reserved to the Holy See.[70]

This supervision of the Ordinary cannot be extended to other temporal affairs, as was stated in the beginning of this chapter, for the "Charter" of approved Congregations explicitly states: "Bonorum . . . administratio penes Moderatorem supremum maximamve Antistitam eorumque consilia esse debet. . . . De iis nullam Episcopus rationem potest exigere."[71] The "Bonorum administratio" must here be strictly interpreted for in things spiritual the Bishop possesses well-defined powers: "Episcopis cuiusque diocesis ius est invisendi templa, sacraria, oratoria publica, sedes ad Sacramentum Poenitentiae, de iisque opportune statuendi iubendi."[72] We might ask here whether the Holy See intends to include the Community's semi-public chapels in this episcopal visitation. Strictly private chapels are exempt from episcopal visitation, except the visitation which precedes their approval (Bargilliat, o. c., n. 1269). But since semi-public chapels are subject to the local Ordinary, one would think that the Bishop possesses full powers to visit them in the same manner as public chapels. It is certain that the present decree does not expressly include the Community oratories. And Ojetti (o. c., n. 2940) quotes Gasparri on this point as follows: "Ceterum haec oratoria (semi-publica) non subsunt formali visitationi episcopi, dum dioecesim perlustrant et ideo non tenentur ad procurationes, nisi in casibus iure expressis; nec in eis erigi possunt beneficia" (De Euch., I, 222). Institutes of women and of laics, moreover, are also subject to the Bishop's investigation in matters of discipline and morality in general: "Episcopi erit inquirere num disciplina ad legum normam

[69] Const. "Conditae a Christo," aa. 9, 11.
[70] Decr S. C. de Rel., "Inter ea," July 30, 1909.
[71] Const. "Conditae a Christo," c. II, n. 9.
[72] Ibid., n. 11.

vigeat, num . . . contra clausuram peccatum, num sacramenta aequa stataque frequentia suscipiantur." [73]

The "inquiry" here referred to is not intended to convey the idea that the Ordinary may proceed to enforce correction in case abuses are discovered; ordinarily he would have to refer the matter to the Holy See.[74] Furthermore, Institutes of clerics are not included in this episcopal inspection, although they are subject to Bishops' jurisdiction in most spiritual affairs, for the following laws are general: "Alumni alumnaeve sodalitatum harum, ad forum internum quod attinet, Episcopi potestati subsunt." And again, "In iis quae ad spiritualia pertinent subduntur sodalitates Episcopis dioecesium in quibus versantur." [75]

To the internal forum and things spiritual belong pre-eminently the Sacraments. Since custom, if indeed not special indults, has exempted Religious Congregations from the jurisdiction of local pastors, practically only two Sacraments require consideration, viz., Penance and Holy Orders.

Ordinarily no occasion for the administration of Baptism or Matrimony in the Chapel of Religious Communities presents itself. But in case of exception the pastor in whose parish the chapel is situated, could validly assist or delegate the permission to assist at Matrimony in the Religious Chapel. (S. Congr. de Sacramentis, March 10, 1910.) As to the becomingness of administering the Sacrament of Matrimony in Religious Chapels, there can be no question. Canonists generally hold that it is unlawful, at least in Institutes of women and in Seminaries. (Ferreres, "los Esponsales y el Matrimonio," p. 309.) The Provincial Council of Valentia explicitly forbids the administration of Matrimony in churches of Regulars, of Congregations, of Colleges and in all Institutes of women and in Seminaries without the special permission of the Bishop. (See Ferreres, l. c.) But it is use-

[73] Ibid.
[74] Ibid.
[75] Ibid., c. II, n. 5 et 8.

less to develop the discipline on Matrimony. The laws regarding Penance are of greater importance.

No further reference need be made to the fact that Institutes of clerics possess no jurisdiction "in foro interno," unless they receive it from the Ordinary. By way of exception Rome has conferred special powers on some Congregations, as for example the Congregations of Passionists and Redemptorists. But this only confirms the general law. Nor is it necessary to discuss at length the right of Religious to confess their sins to any duly authorized priest, when they are outside of their Institute. There was a time when this was not allowed. These prohibitions, however, have been revoked and general liberty given to every Religious, whether male or female, to make his or her confession to any priest possessing ordinary jurisdiction, when lawfully or unlawfully they happen to be outside of their own Community house.[76] But the regulations or discipline regarding the Sacrament of Penance within the Religious houses is of prime importance for Bishop and priest.

Leo XIII prescribed, "Si sodalitates muliebres sint, designabit item Episcopus sacerdotes a confessionibus tum ordinarios tum extra ordinem, ad normam Constitutionis "Pastoralis curae" a Benedicto XIV decessore Nostro editae, ac decreti "Quemadmodum" dati a sacro Consilio Episcopis et Religiosorum ordinibus praeposito, die 17 decembris anno 1890; quod quidem decretum ad vivorum etiam consociationes pertinent, qui sacris minime initiantur." [77] From this it follows that the tribunal of Confession in Institutes of priests is administered by the superiors of the Community: "In presbyterorum sodalitiis, de conscientia . . . uni praesides cognoscent." [78]

All the laws of Leo XIII and his predecessors which are still in force in regard to the confessions of Nuns and Sisters have

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[76] Decr. S. C. O. Aug. 23, 1899: Decr. S. C. de Rel., "Cum de Sacramentalibus," Feb. 3, 1913; Decr. S. C. Rel., Aug. 5, 1913.

[77] Const. "Conditae a Christo," c. II, n. 8.

[78] Ibid., c. II, n. 77.

been generalized and codified by the Holy See in the decree "Cum de sacramentalibus": "visum est in unum colligere Decretum." [79] According to this decree of the Sacred Congregation, it devolves upon the Ordinary to provide "ordinary," "extraordinary," and some "special" confessors for every Religious house of Nuns and Sisters within his diocese. We say "house," because no obligation rests upon the Bishop to assign special confessors to Sisters who confess in the parish Church, though perhaps it would be advisable, as a rule, to do so. If Bishops made this provision, then these confessors could hear the Sisters' confessions also in their parochial convent in case of illness or some other extraordinary circumstances.[80]

The ordinary confessor is appointed by the Bishop for the term of three years. Of course, it is understood that a plurality of regular confessors may be assigned. In fact it would be necessary in large Communities. In such event the extent of each individual confessor's faculties would naturally rest with the Bishop who would certainly express the limitations, if any, in the commission. The ordinary confessor, however, may not be reappointed unless the scarcity of priests demand it or the majority of Sisters for good reasons desire it. Certainly this limitation would not include ordinary confessors designated for the Confessions of Sisters in the parish Church.[81] These depend solely on the will of the Bishop. But the law provides that the ordinary confessor may not be made extraordinary within a year from the expiration of his term.

In virtue of the office of ordinary confessor no right is conferred to meddle with the internal affairs of the Community. This would not only be imprudent, but also in direct violation of the law of the Holy See. The two forums are strictly separated and no reason will justify their blending. If a priest is the moderator of a Community or house, he is thereby excluded from

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[79] Decr. S. C. de Rel., "Cum de Sacramentalibus," Feb. 3, 1913.
[80] Vermeersch, Periodica, vol. VII, p. 93 sq.
[81] Responsio S. C. EE. et RR., July 20, 1875.

hearing the confessions of the Sisters who reside in that house, except in very extraordinary cases.

Nor is this the only disqualification expressed by the decree. Ordinarily only priests who have passed their fortieth year and who in their ministry have manifested prudence and integrity of character, are eligible to the office of Father-confessor for Sisters. While prudence and good morals are essential at all times to worthily discharge the duties of the confessional, yet the Holy See considers that they are requisite in a special degree for the confessions of Religious. Naturally the Bishop may for just reasons make exception to the age-requirement law. Prudence and virtue are not necessarily the endowments of a certain age, and therefore the Holy See leaves much to the discretion of the Bishop.

No general law determines the frequency with which the ordinary confessor must afford the Sisters an occasion to receive the Sacrament of Penance. The Council of Trent admonishes Bishops and superiors to see to it that Nuns approach the Sacraments of Confession and Communion at least once a month (Sess. XXV, c. X, de Rel.). But this regulation establishes only the extreme limit and leaves the rest to the proper authorities. Moreover, no one doubts that Religious should be given every opportunity of gaining the many indulgences granted by the Church. By a decree of the S. C. Indulgentiae (Dec. 9, 1763) confession at least once a week is necessary for obtaining the customary plenary indulgences during the week. In some countries an extension to two weeks has been granted. But Pius X declared that these prescriptions are not obligatory for daily communicants.[82] Hence it can hardly be alleged that the reason of gaining Indulgences would urge weekly confessions and therefore oblige the ordinary confessor to visit the convents weekly. Custom, however, has established a rather general and correct norm in favor of weekly confessions for Religious. If, therefore, the Bishop would not specify the days

[82] Decr. S. C. Indulg., Feb. 14, 1906.

for confession, the custom of the convent could not be disregarded without good reason.

The prescriptions for the extraordinary confessor are very similar to those for the ordinary. The Holy See demands that the Bishop assign extraordinary confessors for every Community "pluries in anno." This would certainly mean at least twice a year. The Council of Baltimore says: "Extraordinarius saltem bis vel ter in anno ad confessiones omnium excipiendas se praesentabit." [83] The Plenary Council of Quebec prescribes the same: "Bis vel ter in anno confessarius extraordinarius concedi debet monialibus etiam votorum simplicium." [84] No specified time for the duration of the term of office is given by the Holy See or particular Councils so far as could be determined from works consulted. The Bishop is at full liberty in all regulations concerning the extraordinary, except that the qualities required for the ordinary, should also be insisted on for the extraordinary confessor. Again, the Bishop may not appoint an ordinary confessor within a year to the same Institute, nor may he delegate a Religious without the consent of his superior.

Finally a certain number of special confessors must be designated whom the Sisters may call to hear their confessions, when for any reason they prefer not to confess to the ordinary confessor. Since this privilege may easily be abused, it rests with the individual confessor to exercise the greatest prudence in treating such souls in order that what is granted for the greater liberty of conscience, may not revert to the detriment of Religious or of their Community.

For very special reasons approved by the Ordinary, a Nun or Sister could obtain a particular father confessor; but since this must necessarily be of very rare occurrence it suffices to know that the Holy See provides even for such extreme cases, but leaves it to the Bishop to judge of the individual case.

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[83] III. C. Balt., n. 97; C. of Trent, Sess. XXV, c. 10, de Reg.

[84] I Pl. C. of Quebec, n. 270; Cfr. also Vermeersch, Periodica, vol. VII p. 89.

These regulations are intended as the ordinary norms for Communities of women. But in cases of serious sickness, even though there exists no danger of death, a Sister may summon any priest having faculties within the diocese as often as she sees fit. The Church's mission on earth is the salvation of souls. Therefore she puts no limits on her children in questions of conscience, and especially not when afflictions, the natural harbingers of the Life to come, bear them down.

The new decree nowhere explicitly states that the validity of the confessions within the convent depends upon this episcopal approval. Seemingly, however, the regulations suppose it.[85] Barrett says on this point: "Specialis deputatio ab ipso Ordinario exigitur, et quidem *ad validitatem,* pro confessario domus ordinario, pro confessario domus extraordinario, pro istis sacerdotibus unicuique domui religiosae assignatis quos singulae vocent, pro uno isto speciali confessario ob peculiarem causam in confessarium habitualem petito." [86]

Some authors, indeed, thought that the decree "In audientia" (Aug. 3, 1913) which gives to any approved confessor the faculty of validly hearing the confessions of Religious even within the Religious house, included also Religious Institutes of women. But the general opinion of Canonists denies this.[87]

In speaking of the new laws regarding confession in convents, Vermeersch draws attention to the fact that special approbation or jurisdiction is necessary only when the Nun or Sister wishes to confess within her own Convent. If, then, a Religious were visiting another Convent, an approved confessor could validly and licitly absolve her in the Convent Chapel.[88] Such a case might become practical, especially where the chaplain would be called on to hear the confessions of visiting Sisters. Having, therefore, the ordinary approval from the Bishop, he could exer-

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[85] Vermeersch, o. c. p. 92.
[86] Sabetti-Barrett, "Comp. Theol. Mor.," Edit. 23, p. 712.
[87] Ibid., p. 704.
[88] O. c., vol. VII, p. 92.

cise his faculty in regard to visitors, but not in regard to the resident Sisters of the Convent.

The regulations or the Sacrament of Penance are not altogether dissimilar to those of the Sacrament of Holy Orders. The Holy See prescribes certain conditions which the Bishop must carry out before he may licitly ordain a Religious. These conditions are the ordinary ones of Canon law. Religious Congregations possess no general privileges of Ordination like the strict Orders. Hence the Ordinary may not ordain a Religious unless the latter present the required testimonials, dimissorials, and canonical title of Ordination, or proof that the Congregation has received a special privilege which exempts it from this requirement.[89] If, however, an Institute possess a special privilege of Ordination, then, "Les supérieurs des Instituts qui ont obtenu un indult spécial de faire ordonner leurs subjets pour leur propre compte, peuvent donner les lettres dimissoriales à l'Êveque du diocèse ou se trouve le monastère." [90]

By the decree "Auctis admodum" (Nov. 4, 1892), the Holy See forbids the conferring of Sacred Orders on Religious before they have made their perpetual profession. Vermeersch thinks that this is obligatory only when the candidate is promoted to Holy Orders "sub titulo privilegiato." Therefore, he concludes, a Religious could be ordained prior to the perpetual profession under a regular title, as for instance under the title of patrimony.[91]

In addition to the ordinary testimonials which are demanded for Holy Orders, the Holy See has seen fit to exact testimonials also from the pastors in whose territory a Religious has been located for three months or more of military service.[92] This was referred to more fully in the fourth chapter.

Ordination, moreover, may not be conferred on Religious, "nisi, praeter alia a jure statuta, . . . professi . . .testi-

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[89] Const. "Conditae a Christo," c. II, a. 6.

[90] Bastien, o. c., p. 237.

[91] Vermeersch, Periodica, Vol. V, p. (15).

[92] Decr. S. C. de Rel., "Inter Reliquas," Jan. 1, 1911; Responsios P. de Rel., Feb. 1, 1912.

moniales litteras exhibeant, quod saltem per annum sacrae theologiae operam dederint si agatur de subdiaconatu, ad minus per biennium, si de diaconatu, et quoad presbyteratum, saltem per triennium, praemisso tamen regulari aliorum studiorum curriculo." [93] The Sacred Congregation for Religious has declared that the terms of this paragraph of the said decree must be interpreted literally, or rather it has interpreted them literally. The Holy See, moreover, has added another year of Theology to the regular course.[94] No express mention is made that this additional year must also precede Ordination. Hence it is interpreted that the law regarding the conferring of Holy Orders is not changed, provided a complete course of Theology is obtained in the prescribed three years. This additional year of regular studies could then be fulfilled subsequently.[95]

A more thorough study of Theology is especially necessary in our times when the air is filled with hyper-critical, irreligious, and heretical tendencies. Pius X strove to counteract these by timely regulations demanding a more complete course of studies for ecclesiastical students.[96] Furthermore, as an aid to their intellectual development and as a protection for the true doctrine of Christ, the Sovereign Pontiff imposed the obligation of taking an oath against Modernism before receiving Major Orders. This does not necessarily mean before each Major Order, but at least before the Subdiaconate.[97] In the case of Religious taking this oath, the law was not clear in designating before whom they must make the oath. This doubt has been solved by the decision: "Alumni Religiosi majoribus ordinibus initiandi tenentur dare iusiurandum a Moto proprio S. Antistitum praescriptum coram Episcopo Ordines conferente." [98]

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[93] Decr. S. C. EE. et RR., "Auctis admodum," Nov. 4, 1892.
[94] Declaratio S. C. de Rel., Sept. 7, 1909.
[95] Vermeersch, Periodica, vol. V, p. 47.
[96] Decr. "Sacrorum Antistitum," Sept. 1, 1910.
[97] Responsio S. C. C. March 24, 1911.
[98] Responsio S. C. C. Dec. 17, 1911.

When all the prerequisites for the reception of the Sacrament of Holy Orders have been complied with, the superior of the Congregation must formally present the candidate to the Bishop for ordination.[99] The fact that one is a Religious does not exempt him in ordination from the obligation of promising obedience to the Bishop, nor of making the Solemn vow of chastity, even though the Religious may have already bound himself by the perpetual vow of chastity.[100] This is due chiefly to the canonical status of Religious Congregations. They are subject to the ordinary jurisdiction of the Bishop in all things spiritual.

In conclusion it is necessary to draw attention to certain delegated powers which Ordinaries receive from the Holy See. It is impossible for the Holy See to exercise direct jurisdiction over the entire government of Religious Societies. The very nature of some, especially of Institutes of women, requires a closer supervision. The Council of Trent commanded Ordinaries to supervise the reception of their candidates and the observance of the Cloister. Papal laws, as has been noticed, ever and anon repeat the Tridentine admonitions and add many other provisions. The Ordinary is responsible for the due and effective promulgation of these decrees. But as a special delegate of the Holy See, he is obliged to safeguard freedom of conscience and the unrestricted access to the Sacrament of Penance according to the decree "Cum de sacramentalibus." The fact that an Institute of women is under the jurisdiction of an exempted Order, makes no infringement on this right of Bishops. Where his ordinary jurisdiction fails to supply the necessary power, a delegated right comes to his assistance. An equally important duty rests upon Ordinaries to preside as a Papal Delegate over Convents or Chapters when the various offices are assigned in Communities of Sisters.[101] To these, particular delegations are frequently added according to the peculiar nature of some Institutes

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[99] Const. "Conditae a Christo," C. II, a. 6.

[100] Bastien, o. c., pp. 24, 239.

[101] Const. "Conditae a Christo," C. I, n. 1.

and the varying circumstances of different countries. These special faculties can be learned only from the respective indults.

This, then, finishes the purpose of the present treatise. An effort has been made to outline the Religious Congregations' external relations, both canonically and historically. This led to the investigation of their nature, origin and development; of their foundation and ecclesiastical approval; of the reception, bond, and expulsion of members; and finally of their pontifical and episcopal government. Considering the limitations and frailties of human nature, the writer can hardly hope that his sincere and laborious efforts have detected every truth or escaped every mistake. Hence the kind indulgence of the reader is solicited, if errors or shortcomings have crept into this short treatise.

A.M.D.G. ET B.V.M.

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TITULI

HORA IX A. M. DIE V JUNII A. D. MCMXVI

I. De Potestate Legislativa Ecclesiae Catholicae.

II. De Legislatoribus Ecclesiasticis.

III. De Objecto Legum Ecclesiasticarum.

IV. De Interpretatione Legum Ecclesiasticarum.

V. De Corpore Juris.

VI. De Regulis Juris in Genere.

VII. De Decretis Romanorum Pontificum.

VIII. De Decretis SS. Congregationum.

IX. De Electione Romani Pontificis.

X. De Civili Veto seu Exclusiva.

XI. De Romanae Curiae Dicasteriis in Genere.

XII. De Congregatione Negotiis Religiosarum Sodalium Praeposita.

XIII. De Congregatione de Propaganda Fide.

XIV. De Vicariis Apostolicis.

XV. De Cardinali Protectore super Ordines et Congregationes.

XVI. De Juribus Episcoporum Ordinandi Religiosos.

XVII. De Episcoporum Jurisdictione in Religiosis Institutis.

XVIII. De Coadjutoribus Episcoporum.

XIX. De Parocho quoad Sacramentum Baptismi.

XX. De Parocho quoad Sacramentum Matrimonii.

XXI. De Parocho quoad Religiosas Congregationes.

XXII. De Potestate Parochi quoad Audiendas Religiosorum et Religiosarum Confessiones.

XXIII. De Privilegio Clericorum Ingrediendi Religionem.

XXIV. De Transitu Religiosorum et Religiosarum ad Aliud Institutum.

XXV. De Exemptione Religiosorum Ordinum et Institutorum.

XXVI. De Usu Kalendarii in Religiosis Institutis.

XXVII. De Saecularizatione Religiosorum Clericorum.

XXVIII. De Tertiis Ordinibus Laicis.

XXIX. De Confraternitatibus.

XXX. De Oratoriis.

XXXI. De Alienatione Bonorum Ecclesiasticorum.

XXXII. De Lege Contrahendi Debita in Religiosis Institutis.

XXXIII. De Sepultura Ecclesiastica.

XXXIV. De Iis Quae Praemitti Debent Celebrationi Matrimonii.

XXXV. De Impedimento Disparitatis Cultus.

XXXVI. De Impedimento Vis et Metus.

XXXVII. De Impedimento Clandestinitatis juxta "Ne Temere."

XXXVIII. De Impedimento Aetatis.

XXXIX. De Impedimento Publicae Honestatis.

XL. De Impedimento Cognationis Spiritualis.

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XLII. De Foro Competenti.

XLIII. De Arbitris.

XLIV. De Advocatis.

XLV. De Testibus.

XLVI. De Judiciis in Causis Expulsionis et Dimissionis Religiosorum.

XLVII. De Dolo.

XLVIII. De Contumnacia.

XLIX. De Delicto Ecclesiastico Eiusque Constitutivis in Genere.

L. De Concursu Plurium Personarum in Idem Delictum.

LI. De Applicatione Legis Poenalis Ad Delicta Ecclesiastica.

LII. De Poenis Vindicativis in Genere.

LIII. De Irregularitate in Genere.

LIV. De Poenis Inhabilitantibus Ad Officia Ecclesiastica.

LV. De Privatione Officiorum et Beneficiorum Ecclesiasticorum.

LVI. De Depositione Clericorum.

LVII. De Degradatione Clericorum.

LVIII. De Conditionibus, Modo, Formis Requisitis Ad Infligendas Censuras Ecclesiasticas.

LIX. De Effectibus Censurarum Ecclesiasticarum.

LX. De Cessatione et Absolutione Censurarum Ecclesiasticarum.

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VITA.

Celestine A. Freriks was born of Dutch parents at Essen, Germany, March 9th, 1876. When he was four years of age his parents emigrated to the United States and established their permanent domicile at Corning, Ohio. Here he received his early education in the State school, but completed the primary grades in the Parocial school of St. Bernard's parish under the guidance of the Sisters of Charity of Nazareth, Kentucky. Upon the successful completion of the six-year academic and collegiate course with the Fathers of the Most Precious Blood of Collegeville, Indiana, St. Joseph's College conferred on him the degree of Bachelor of Arts in 1906. In the same year he entered St. Charles Seminary of the Society of the Most Precious Blood. December 21st, 1911, the Society presented him to His Grace, the Most Reverend Henry Moeller, Archbishop of Cincinnati, for ordination to the Priesthood. The following year he entered the Catholic University of America for a post-graduate course, choosing for his major study Canon Law under the direction of Dr. Creagh, and subsequently of Dr. Bernardini; and for his minors, Moral and Sacramental Theology under Dr. Melody and Dr. Kennedy, O. P. He attended, moreover, the course in Industrial Ethics of Dr. Ryan. Gladly, therefore, does he avail himself of this occasion of publicly thanking the various teachers for their valuable assistance and never-failing kindness.